89-1328

SUPREME COURT, U.S.
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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

LOUISE W. GOODRICH,

Petitioner,

v,

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION SEVEN

PETITION FOR WRIT OF CERTIORARI
(with Two Appendix Volumes)

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Louise W. Goodrich,
in propria persona

82 pp

QUESTIONS PRESENTED FOR REVIEW

1. Do consumer protection laws such as THE NATIONAL MANUFACTURED HOME CONSTRUCTION & SAFETY STANDARDS ACT OF 1974 contain rights which rise to the level of entitlement to protection under the Vth & XIVth Amendments of the Constitution?
2. Is a recorded legal document a property protected by the Vth & XIVth Amendments to the United States Constitution?
3. Where deprivation of multiple rights is alleged, was it error for the Court of Appeal not to consider County policies to determine whether a cause of action was independently stated?
4. Does the California State-enacted Tort Claims Act apply when causes of action allege tortious conduct by a County which: (a) is not identified therein? (b) causes deprivation of multiple rights proximately caused by County policy? (c) aids & abets a successful conspiracy?

LIST OF ALL PARTIES

Louise W. Goodrich, plaintiff, petitioner.

Los Angeles County, defendant, respondent, demurring party.

Other parties named in the Eighth Cause of Action for Conspiracy,

Redman Homes, Inc.;

Bratton Enterprises, Inc.;

Conrad's Mobilehome Service;

Halart Escrow Co.

are not parties to any of the demurrer motions brought by the County, and are not parties to this Petition.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

No._____

LOUISE W. GOODRICH,

Petitioner,

v.

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, SECOND DISTRICT DIVISION SEVEN

The Petitioner, Louise W. Goodrich, hereafter "Petitioner", respectfully prays that a writ of certiorari issue to review the opinion of the California Court of Appeal, Second District, Division Seven, filed in the above referenced matter on August 11, 1989. (Petition for Review by Supreme Court of California denied on November 21, 1989).

OPINIONS BELOW

The opinion of the Court of Appeal Second Appellate District, Division Seven, which was not for publication, is reproduced in the Appendix hereto (Vol. II, App. A, at p. 1a)*. (Supreme Court of California denied Petitioner's Petition for review of Appeal Court's opinion, on November 21, 1989, and is reproduced in Vol. II, App. B, at p.42a) (Judge Howard J. Schwab, law and motion court's order sustaining the County of Los Angeles', hereafter "County", demurrer motion and dismissing the County from suit was filed March 31, 1988, is reproduced in Vol. II, App. C, at p. 44a). (Judge Robert L. Roberson, law and motion court's Minutes entered October 24, 1986, is reproduced in Vol. II, App.D, at p.51a, Notice of Ruling is reproduced in Vol. II App. E at p. 53a).

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* The Appendix hereto is presented in two appended volumes, designated herein "App."

JURISDICTION

Petitioner seeks review of Opinion of the Court of Appeal entered on August 11, 1989.

By Order dated November 21, 1989, the Supreme Court of California denied Petitioner's Petition for Review (App. B p. 42a) This Court's jurisdiction is invoked under 28 U.S.C. §§ 1331, 1343(3); 42 U.S.C.A §§ 1983 1985(3).

CONSTITUTIONAL PROVISIONS, FEDERAL AND STATE ENACTMENTS

UNITED STATES CONSTITUTION, Art. I, Sec. VIII, (3.); Sec. X, (1.); Art. VI, (2.). [Vol. III, App. p. 59a]

AMENDMENTS TO THE CONSTITUTION, Art. V; Art. IX; Art. XIV, (1), (5). [Vol. III, App. p. 59a]

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CONGRESSIONAL ACTS 42 U.S.C. §§ 1983, 1985 [Vol. III, App. p. 62a]

The National Manufactured Home Construction and Safety Standards Act of 1974. 42 U. S. C. § 5401 et seq. (applicable sections) [Vol. III, App. p. 63a]

FEDERAL EGULATIONS Code of Federal Regulations, Title 24--Housing and Urban Development, CH. XX--Office of Assistant Secretary for Housing

Part 3280. Manufactured Home Construction and Safety Standards (applicable sections) [Vol. III, App. p. 69a]

Part 3282. Manufactured Home Procedural and Enforcement Regulations (applicable sections) [Vol. III, App. p. 78a]

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California Administrative Code Title 25 Mobilehome Parks Act, Chapter 2, Subchapter 1, Art. I, Administration and Enforcement (applicable sections) [Vol. III, App. p. 93a]

Government Code § 815.6 Mandatory duty of public entity to protect against particular kinds of injuries; § 818.4 Issuance, denial, suspension or revocation of permit license, etc.; § 818.6 Failure to inspect, or negligent inspection of, property [Vol. III, App. p. 108a]

Health and Safety Code, State Housing Law Division 13, Chapter 2, (applicable sections) [Vol. III App. p. 109a.]

The Mobilehomes, Manufactured Housing Act of 1980. Health and Safety Code § 18000 et seq. (applicable sections) [Vol. III, App. p. 110a.]

STATEMENT OF THE CASE

A. NATURE OF THE CASE

Petitioner brought suit in the Superior Court of Los Angeles County, California, Department 83, against Redman Homes, Inc., Bratton Enterprises, Inc., Conrad's Mobile-

home Service, Halart Escrow Co., and the County. The first six Causes of Action were against the other defendants only.

All defendants were named in the citation in the Second Amended Complaint, hereafter "2AC", Eighth Cause of Action, hereafter "8CA", for Conspiracy in pursuit of a common goal: that a damaged and defective structure, which had been substituted for the new home Petitioner agreed to purchase, remain on her real property, without cure and unfit to qualify for a properly recorded legal document showing her real property to be improved. This Cause of Action was brought under the Vth and XIVth Amendments to the United States Constitution, hereafter "U.S. Constitution", and 42 U.S. C. §§ 1983, 1985. The County was named as "state actor" therein.

The demurrer motion brought by the County to this 8CA was sustained with leave to amend. None of the other defendants were

party to the demurrer or its subsequent Appeal, or to this Petition.

Petitioner's 2AC, Seventh Cause of Action hereafter "2AC, 7CA", against County only, was for the County's failure to perform mandatory duties. The County demurrer to this cause of action was sustained without leave to amend on grounds that Government Code §§ 818.4 and 818.6, commonly known as "immunities laws", were applicable.

In Petitioner's Third Amended Complaint the 8CA alleging Conspiracy was repleaded. A Seventh Cause of Action against the County only,was added for deprivation under color of law, of Petitioner's property and valuable property interests, without Due Process, and for deprivation of the Equal Protection of the law, under 42 U S.C. § 1983, and Vth & XIVth Amendments to the U.S. Constitution.

The County demurred to both of these Causes of Action citing the California State-

enacted immunities laws as above. These demurrer motions were heard by Judge Robert L.Roberson, in Department 83, who sustained them with leave to amend.

The demurrer motions of the County to these two causes of action, repleaded in 5th Amended Complaint, hereafter "7CA, 8CA of 5AC", were transferred to Lancaster Court, where they were not heard but were transferred to Van Nuys. At oral argument Judge Howard J. Schwab repeatedly stated, "the County botched the job". Nevertheless Judge Schwab ignored the verified pleadings which set forth with specificity several County policies and practices which proximately caused the deprivations of Petitioner. He sustained the demurrer motions without leave to amend stating that County policies had not been stated, and dismissed the County from suit.

Petitioner appealed the sustaining of all three demurrer motions (7CA, 2AC,"Breach of

Mandatory Duty"; 7CA and 8CA of 5AC, "Deprivations of Rights" and "Conspiracy") and the dismissal of County from the suit.

The jurisdiction of California Superior Court was invoked under 42 U.S.C. §§ 1983, 1985.

B. SUMMARY OF FACTS ALLEGED IN THE VERIFIED PLEADINGS MATERIAL TO THE CONSIDERATION OF THE QUESTIONS PRESENTED

In February, 1983, Petitioner purchased two residential lots in the unincorporated area of Los Angeles County. County Engineer-Facilities, Building and Safety Division, Lancaster Office, is the local enforcement agency of jurisdiction. County personnel in this office advised Petitioner she could improve her real property with a manufactured home* and gave her printed

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* A manufactured home is subject to "The National Manufactured Home Construction and Safety Standards Act of 1974" 42 U.S.C. § 5401 et seq., and related Federal Regulations; A manufactured home located outside of a mobilehome park in California, is subject to The Mobilehomes, Manufactured Housing Act of 1980. H & S Code § 18000 et

material, "Notice to Applicant for Mobile-home On Residentially Zoned Lot", which set forth conditions to be met.

In March, 1983, Petitioner entered into a contract with a manufactured home dealer to purchase a new home for all cash. Home to be manufactured-to-order, and installed on her residential real property which is not located in a mobilehome park. [Health and Safety Code § 18551**, hereafter "H & S"] The dealer agreed to transport the home in two section to the property site, and to install it (set-up, attach the two units together, tie it to the permanent foundation, and to hook it up to utilities). Dealer hired the services of a subcontractor to provide installation services.

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seq., § 18551. [Vol. III, App. p. 118a]

** For the Court's convenience, reference sections of applicable laws will be bracketed. Text of all bracketed laws are set forth in full in Vol. III of Appendix.

Petitioner agreed to provide all lot preparation, utilities, and the concrete portions of the permanent foundation. She hired the services of a private contractor and agreed to pay for permits for his work. Manufacturer agreed to provide the structure, manufactured in conformance with the Federal Standards regulating such commercial product [CFR Part 3280.], and to produce and furnish permanent foundation plan blueprints designed and engineered in compliance with Ch. 29 of the Uniform Building Code, hereafter "UBC", to be used with the model it was hired to manufacture for Petitioner.

Manufacturer agreed to supply the documents required for Plan Check: floor plans (the design of the model), foundation plans, and site installation instructions. [CA Adm Code § 1020(a)(2),(3); § 1020(b); 1333]

An escrow was opened by the dealer. Unknown to Petitioner, the instructions

furnished to escrow by dealer did not reflect the type of home which Petitioner contracted to purchase. [H & S Code § 18059.5] The escrow agent used a preprinted form. It did not require a Recorded Form HCD413 to be used to close the escrow. [H & S Code § 18551(a)(6)]

County is the local enforcement agency of jurisdiction. [H & S Code § 18300(f)] In June, 1983, manufacturer's materials were submitted to Plan Check [CA Adm Code § 1022(e)(2)]. In accordance with customary County practices, plan checkers did not examine the contents of the materials submitted, and failed to note or to reject the manufacturer's nonconforming design and installation instructions which were for a mobilehome designed to be used without a permanent foundation [CA Adm Code § 1022(e)]. County erroneously designated Petitioner as an owner-builder, issuing all building permits to her, including a second

foundation permit with notation, "M. H. on perm. found.", charging her the fees for an installation permit [CA Adm Code §§1020(a), (c)(1), (2); 1024(a)] eighty ($80) dollars, at the time. Contrary to H & S Code par 2, § 18613, neither dealer nor dealer's sub-contractor applied for an applicable permit to install the manufactured home.

In August, 1983, the manufacturer produced the structure to the design as approved by Plan Checkers. The lot preparation and all other work performed by Petitioner's independent contractor, was inspected, and approved by County. The home, in two units, was transported to the site by the dealer.

When the manufacturer failed to design the home as a completely integrated structure, [Act, § 5413(e); CFR §§ 3280.305(a), 3280.306(a)] and when Plan Checkers failed to reject the documents supplied by the manufacturer, [CA Adm Code §§ 1020(d) and 1022(e)] it created an on-site dilemma: the

configuration of the structure was not suited to be lowered onto the permanent foundation without modification. The procedures set forth in the manufacturer's DAPIA-approved installation instructions [CFR § 3280.303 (a); 3282.203(b)(10)] could not be followed, since they were designed for a mobilehome to be installed upon a temporary support system which is not the same as a permanent foundation which contains a concrete perimeter stem wall. [Act, § 5402(6); CFR §§ 3280.2(a)(16); 3282.7(v)] County did not issue a stop-work order [CA Adm Code § 1046] nor require a permit for variation to be obtained from the HCD [H & S Code § 17290].

The dealer's subcontractor improvised methods and procedures to attach the two sections of the home together and to attach the structure to the concrete perimeter stemwall which were accepted by the County.

The structure was damaged and failed to

conform to the Federal Standards [CFR § 3282.7(o]. The purpose for which tie-downs are required was defeated. [CFR § 3280.302 (a)(3); 3280.306(a), (b); 3282.303 (c)]

In September, 1983, Petitioner noticed many cracks and other defects in the structure, after it had been lowered onto the concrete foundation, and gave written notice to the dealer, manufacturer, installer and escrow. County acknowledged the damages and defects to exist, but did not report them to the HCD (SAA), since County policy does not require Federal or State manufactured housing laws to be followed. [H & S Code § 18613.]

Neither dealer nor manufacturer complied with the Federal Regulations regarding remedy of damages and defects in a manufactured home. [CFR § 3282.401(a),(b); 3282.404 (b)]. Subcontractor disclaimed responsibility. The manufacturer sent a worker to the site who covered up and

obscured many of the visible damages and defects in the interior of the structure, but failed to investigate [§ 3282.404(b)] or report the faulty installation of the support piers underneath the structure.

County failed to monitor the installation [H& S Code §§ 18613, 18614], to inspect the support piers, or to perform the tests to the utilities. [H & S Code § 18025(a); CA Adm Code §§ 1362(a) water distribution system, and drainage piping system; (b) fuel gas piping system and vents; (c) electrical wiring; which correspond to CFR §3280.601, plumbing system; § 3280.705(a), gas; § 3280.612 (a) and (b), water; § 3280.610, drainage; 3280.810(a) & (b), electrical.]

In October, 1983, Dealer's subcontractor called for a final inspection approval by the County and, unknown to Petitioner, submitted a form to the County to sign which was not applicable to manufactured homes installed as improvements to real

property [see Vol. III, App. p.125a, which details the proper Form HCD to be used for this purpose, and H & S Code § 18551(a)(6)]

Petitioner and her friend [witness] were present at the site on this occasion and vigorously opposed the County agent's signing of this document, specifically pointing out that the floors were sagging and uneven, and that the cross-over duct was in contact with the ground [CFR § 3280.715(a)(5)(ii)]. Petitioner explained she was still in the process of attempting to get the damages and defects remedied through the dealer and/or manufacturer.

County dismissed her objections stating that the sagging floors were only "cosmetic defects", but issued a correction card to dealer's installer regarding the duct's contact with the ground. County did not inform the HCD (SAA) that damages and defects had not been corrected, and that a controversy existed. [H & S Code § 18613.]

County inspector ignored Petitioner's authority, (since all permits had been issued to her as an owner-builder), and in compliance with customary and usual practices of the County, accepted the contractor's word that the home complied with the governing laws and all the work had been performed in a proper and workmanlike manner, in lieu of performing inspections, and signed the false document.

Petitioner was not informed that a special document was required to be used for this type of installation. Nor was Petitioner informed that the applicable document, Form HCD413, was required to be recorded by the County, and that the recorded document was required to be used to close an escrow for the sale of this type of home. [H & S Code § 18551(a)(6); see App. p. 125a]

On the same day, October 17, 1983, dealer submitted the signed document to escrow, knowing the structure was in damaged and

defective condition, thereby completing a prohibited sale to Petitioner. [CFR §§ 3282.8(e); 3282.251(a), (b)] Escrow closed.

Unknown to Petitioner, Dealer executed an official HCD Form, Dealer's Report of Sale, using another official HCD Form, Power of Attorney, to which Petitioner's signature had been forged. (When this forgery was discovered over a year later, Petitioner had it verified by an expert examiner of documents.) The Dealer's Report of Sale contained certification that the structure complied with all applicable laws, and that it had been installed upon a temporary support system in a mobilehome park.

Petitioner was not given a copy of this document. As a result, the HCD issued mobilehome park decal and papers to Petitioner. [H & S Code §§ 18075.5, 18551.]

County has not recorded any document at any time, showing Petitioner's ownership of a manufactured home as improvement to her

real property.

In November, 1983, County signed all building permits, including utilities, as having been inspected and approved, notwithstanding that the mandatory tests and inspections had not been performed.

In November, 1983, at great effort and discomfort, Petitioner crawled underneath the structure to see what might be responsible for the defective sagging floors.

She was shocked to find the piers, the purpose of which is to support the structure, were not installed properly on the concrete pads, and in some instances were not even in contact with the "I" beams, the main frame of the chassis, on which the structure is built. [CFR §§ 3280.301; 3280.302(a)(10), (11), (14)]

Petitioner notified the manufacturer, installer, and County, with written notification sent to dealer. Promises were made but no inspections, investigations or

corrections were forthcoming. [CFR §§ 3282.401(a), (b); 3282.402(e); 3282.404(b)]

In January, 1984, Petitioner made formal complaint to the HCD. The HCD advised Petitioner to request the conditions of the support piers be inspected by the County. County issued a report limited to citing the conditions Petitioner had found.

Petitioner vigorously pursued remedies. In August, 1984, HCD sent representative to the site who made cursory inspection, and stated that the County held jurisdiction over the installation of the piers.

Receiving no cooperation from the local County Lancaster office, in September, 1984, Petitioner contacted the main County Offices in Los Angeles, demanding written information regarding the responsibilities of the County, and that a proper inspection be performed.

Two inspectors from the Lancaster office came to the site, made cursory inspection

of the support piers, but withheld the report for a few weeks. In October, 1984, Petitioner received "Information Bulletins" from the County, which had been issued by the HCD,* [see Miscellaneous App. p. 125a] and a County Memo giving explicit information regarding enforcement agency duties.

In November, 1984, a meeting took place in County Supervisor Antonovich's offices where Petitioner met with County superior officials of the Building & Safety Department, Don Wolfe; County Recorder's Office, Saeed Amanullah; and County Counsel, Helen S. Parker; presided over by Supervisor Antonovich's Deputy, Sherry Foote.

At that meeting Mr. Wolfe, concurred in by Ms. Parker, ratified all actions taken by the personnel of the Lancaster Office. Mr. Wolfe specifically stated that the plan

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* Copies of these Bulletins were attached to the 2AC to take judicial notice; and incorporated in the 5AC.

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checking duties had been performed in compliance with the County policy: only to look at the numbers on the documents [CA Adm Code § 1022(e)]; and, that the final inspection had been performed in compliance with the County policy: to spend no more than five minutes on a Final Inspection Approval [CA Adm Code §§ 1020 (c) (2), (3); 1024(b); 1326(a), (b); H & S Code § 18613].

They disclaimed any duty of the County or its agents and representatives to comply with either Federal or State manufactured home laws, citing the County's own ordinances [Act § 5403(d); CFR §3282.11(e); H & S Code §§ 18015; 18025; 18025.5(a); 18300(a), (f); CA Adm Code § 1000]. (An official County policy.)

They confirmed that no document had been recorded. [H & S Code § 18551(a)(6)] They disclaimed any duty to report the damaged conditions of the structure to the HCD, [18613, 3rd Par.] and told Petitioner they

held her personally responsible for any violations since she was the permit holder of record, (an official County policy) and, since the Certificate of Occupany was voidable, she could be cited for living in the home [H & S Code § 18550(e)].

The harrassment, and callous attitude of these superior County Officials caused Petitioner extreme emotional distress.

Petitioner's friend [witness] who was also present at this meeting, requested that a written summary of this meeting be sent to Petitioner. Letters were sent wherein cooperation was promised to get the matter remedied. Nothing was accomplished.

Petitioner notified the HCD of this unsatisfactory meeting, and they undertook an inspection in December, 1984, issuing their report of 68 substantial defects and violations in February, 1985.*

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* Copy of this Report was attached to both the 2AC and 5AC.

In January, 1985, in order to preserve her rights, Petitioner gave "Notice of Claim" to County, which was duly rejected on March 21, 1985.

In response to the HCD Report, in April, 1985, manufacturer sent worker to the site to begin corrective work, a broken waste drain pipe was discovered, replaced, and all corrective work ceaced, without any explanations.

Finally, June, 1985, Petitioner hired the services of a lawyer, and suit was timely filed in September, 1985.

The County demurred, citing immunity.

The matter has been prevented from being heard by any Court through the demurrer motions of the County.

The substituted, damaged, defective and unsafe structure, in nonconformance with the Federal Standards, installed on Petitioner's real property in 1983, remains there to this day, unfit to be peacefully

enjoyed as her home, unfit to be issued a recorded document (title), and unfit to be sold [Constitutions of both the United States and the State of California].

Petitioner alleged in her verified pleadings all of the events and happenings as set forth above.

C. ENTITLEMENTS AND DEPRIVATIONS ALLEGED IN PETITIONER'S VERIFIED PLEADINGS OF THE 7CA AND 8CA OF 5AC

As a citizen, and a resident of the State of California, Petitioner is entitled to all of the Rights and benefits directly bestowed by the U.S. Constitution and the Vth and XIVth Amendments thereto, and the Constitution of the State of California.

The Rights affected are: to contract; to own and hold title to every species of property; to dispose of her property in any lawful manner as she sees fit; to defend herself and her property not merely by physical force but through the force of the body politic; to peacefully and safely

enjoy her home; not to have her property "taken" without Due Process; and to the Equal Protection of the laws of the land.

Purchasers, including Petitioner, are entitled to all of the rights and benefits contained in the National Manufactured Home Construction and Safety Standards Act of 1974, and related Federal Regulations.

These include the rights: to receive the manufactured-to-order home she contracted to purchase in conformance with the Federal Standards in every respect; that the dealer is prohibited from altering the home in any manner as to render it in nonconformance with the Federal Standards; that the dealer is prohibited from completing the sale of a defective home; that when a manufactured home may contain an imminent safety hazard, serious defect, defect, or non-compliance, procedures to be followed by manufacturers, SAAs, and the Secretary, to effect speedy remedies therefor, are set

forth in the CFRs.

Purchasers of a manufactured home, including Petitioner, in the State of California, which has applied for and been accepted to participate in the Federal Enforcement Program, are entitled to all of the rights and benefits contained in the Mobilehomes, Manufactured Housing Act of 1980, Health and Safety Code § 18000 et seq.; The Mobilehome Parks Act, H & S Code § 18300 et seq.; CA Adm Code § 1000 et seq.

These include the right to have the enforcement agency of jurisdiction perform the service of Plan Check which ensures that the design and configuration of the home in question, and the site installation instruction therefor, comply with the Federal Standards, and, when applicable, the design and engineering of the permanent foundation plans therefor, comply with CH. 29 of the UBC; if the plans being checked do not comply, to have the plan checkers

notify the applicant and identify the manner in which they do not comply; to re-submit the plans and to have them re-checked for an additional fee.

These also include the right to have the enforcement agency provide services: to perform tests to the utilities; inspect the structure for defects and damages; report defects and damages to the HCD (SAA); to notify the HCD (SAA) when a controversy exists; as well as to call for a reinspection for an additional fee.

Purchasers of manufactured homes which are to be installed on residential lots not located in a mobilehome park, including Petitioner, are **ENTITLED** to have the local enforcement agency of jurisdiction use, complete, and RECORD a specific HCD Form 413, **A LEGAL DOCUMENT**, showing their ownership of a manufactured home which has been converted from status of personal property to that of improvement to real

property, and taxed accordingly.

All persons who are, or, however erroneously may have been, designated an owner-builder, such as Petitioner, and to whom all building permits have been issued, have the right to sole authority over the project under their control which includes that no unauthorized third party may call for a final inspection approval, or request that a Certificate of Occupancy be issued.

Petitioner alleged that the County has usual and customary practices and officially adopted policies regarding the performance of all of these services which were followed by the field personnel and County Officials, which proximately caused her to be deprived of the applicable rights and entitlements enumerated above.

Petitioner further alleged that Officials of the County, at the meeting held in November, 1984, **RATIFIED** all of the actions taken or omitted, by the field personnel

regarding Petitioner's home, and detailed the official County policies with regard to providing these services. These Officials stated the County policy that they were not required to comply with either Federal or State manufactured housing laws.

Petitioner alleged: (1) that she was, and is, being deprived of her property, her home and its recorded legal documentation of ownership of an improvment to her real property, without due process; (2) that she was and is being deprived of the equal protections found both in the Federal and State enactments regarding manufactured homes; (3) that a conspiracy existed which was intended to harm her and deprive her of the home she innocently and in good faith agreed to purchase; (4) that the policies and participation of the County enabled the goal of the conspirators to be achieved and were the proximate cause of Petitioner's deprivations. [CFR §§ 3282.8(e),

3282.251(a), 3282.252.]

Additionally, Petitioner alleged in her 5th Amended Complaint, that the County has an officially adopted policy of reliance upon the California State-enacted immunity laws. Such reliance permitted improper hiring and training practices which proximately caused Petitioner's original deprivations. This policy has proximately caused these deprivations to continue unabated, and now, without redress.

REASONS FOR GRANTING WRIT

I

The status of consumer protection laws is a question which has not been, but should be addressed by this Honorable Court. It affects all citizens whom Congress intends to benefit and protect when it passes this type of Congressional Act.

Whether the Federal Act provides cognizable benefits to manufactured home purchasers affect all persons within the class.

II

The recording of legal documents is an essential part of life in a country where ownership of property is guaranteed under its Constitutional provisions.

Since the Appeal Court has given its opinion that a legal document is not a property entitled to protection under the XIVth Amendment, this Honorable Court's opinion is necessary to secure justice.

III

Where two causes of action met their individual criteria to establish bona fide complaints under §§ 1983 and 1985, and the "State actor" therein is dismissed from the suit on grounds that a different cause of action against it, that only alleges a tort under State law, and which has a different criteria to be met in order to state such cause of action, the question of which cause of action should take priority of consideration on appeal, is a question

which should be addressed by this Honorable Court to establish orderly priorities which are in harmony with Article VI (2), of the U. S. Constitution.

IV

(a) Whether State judges can expand State-enacted immunities laws to include other tortious conduct not specified therein, is a matter of grave concern affecting the due process rights of all citizens which should be settled by this Honorable Court.

(b) Whether a state-enacted immunity law is applicable to tortious conduct taken in compliance with County policies and which deprives a citizen of property, and the equal protection of a federal law, is a question of Federal law which requires clarification by this Honorable Court in order to prevent miscarriage of justice.

(c) Where the acts of the "state actor" under color of law are in compliance with customs and official policies, and further

a conspiracy such that the goal of the conspirators is successfully achieved, whether the state-enacted immunities laws are applicable is a question of Constitutional law.

V.

Where violations of Constitutional Rights are numerous, and the laws complex, a decision by a Court of Appeal should not be based upon the misapprehension of the facts pleaded.

ARGUMENT IN SUPPORT OF THE REASONS

I

When the Appeal Court considered whether the Federal Act contained cognizable benefits, it gave as its opinion that consumer protection laws do not rise to the level of property interests protected by the Vth and XIVth Amendment. (App. p. 32a) This opinion includes all Congressional Acts designed for the benefit of consumers. The National Manufactured Home Construction and Safety

Standards Act of 1974, 42 U.S.C. § 5401 et seq., is such an Act of Congress.

It is unique among such laws in that it relates exclusively to a purchaser's home, protected under the Constitutions of both the United States and California [App. pps. 59a-61a].

Since there are no case laws in this important area, it is a case of first impression.

When an Act of Congress puts a particular commercial industry and its product under Federal regulation, it promotes the general welfare of the people. It limits the powers of the State.

> "In accordance with the very wording of the XIVth Am, Congress has the power by appropriate legislation to enforce the provisions preventing the State from denying to any person within its jurisdiction the equal protection of the laws".

CIVIL RIGHTS CASES, 109 US 3, 27 LEd 835, 3 S CT 18;
DEPARTMENT OF MENTAL HYGIENE v. HAWLEY, 59 C 2d 247, 28 CAL Rptr. 718, 379 P2d 22;

The Act does not impose a duty of

enforcement either on the states or their political subdivisions. However, it does restrict the States and their political subdivisions from taking any action which impairs the Congressional superintendence of the manufactured home industry [Act, § 5403(d); CFR § 3282.11(e)].

This Act is under enforcement jurisdiction of the Secretary of HUD. The purpose of Congress was to provide manufactured home purchasers with durable structures of reasonable quality and safety.[Act, § 5401] Federal regulations were promulgated regarding standards of construction and safety, [CFR Part 3280.] as well as procedures to be followed by manufacturers, SAAs, and the Secretary when a manufactured home fails to conform. [CFR Part 3282., Subpart I, § 3282.401 et seq.]

These remedies by-pass the need for costly and time-consuming litigation. They are meant to protect the rights of all.

[Act, § 5421; CFR § 3282.401(a)]

All of these regulations offer significant benefits to which all manufactured home purchasers are entitled.
[Act, §§ 5413 (e), 5421; CFR § 3280.305(a), §§ 3280.306(a), 3282.8(f)]

A State may voluntarily apply to the HUD Secretary to participate in the Federal Enforcement Program as State Administrative Agency (SAA).[Act § 5422(a)] In order to be accepted, a State must submit a State Plan [Act § 5422(b); CFR § 3282.302(a) & (b), 3282.305, 3282.303(b), (c)]

CFR § 3282.302(a)(8) permits the State to use other agencies to carry out the State Plan. [see H & S Code § 18300 et seq.; CA Adm Code § 1004(a)(3) & (4), and (c)]

A certification is required to be made by the Administrator in charge of the State Agency. This certification is found on page 3 of the California Amended State Plan Application dated August 28, 1981:

> "I certify that upon approval of this amended application the State plan will be carried out in full, and that the regulations issued under the [Federal Act] will be followed."
>
> signed by I. Donald Terner, Director.

California was accepted to participate. It enacted The Mobilehomes, Manufactured Housing Act of 1980, Health and Safety Code § 18000 et seq.; the Mobilehome Parks Act, H & S Code § 18300 et seq., with mobile and manufactured home regulations promulgated in CA Adm Code § 1000 et seq.

Since these state enactments are part of the State Plan which are required to be carried out in full, they have the force of Federal Law. Therefore, purchasers of manufactured homes are not only entitled to the protections contained in the Federal Act and related regulations, but also to the protections and benefits of the state laws related to manufactured homes.

These benefits include plan check, tests, inspecting, reporting damages, the use of

particular documents and the recording of same. [CFR §§ 3280.203(b)(10), 3280.303(a); H & S Code §§ 17958.3, 18015, 18025.5(a) & (b), 18300(f), 18503, 18613; CA Adm Code §§ 1020(a), (c)(1), (2), (d), 1022(e), (e)(2), 1024(a), (b), 1320, 1333, 1362, 1364.]

There is a need for this Honorable Court to provide guidance to all Courts by addressing the issue of whether or not these manufactured home laws, both Federal and State, contain cognizable benefits; and whether Federal consumer protection laws rise to the level of property interests and rights entitled to protection under the Vth and XIVth Amendments to the United States Constitution.

> "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it, he must instead have a legitimate claim of entitlement to it." BOARD OF REGENTS v. ROTH, U.S. 564,577, (1972) DAVIS v. MANSFIELD METROPOLITAN HOUSING AUTHORITY, 751 F. 2d 180 (6th Cir. 1984) SWAN v. GASTONIA HOUSING AUTHORITY 502 F.Sup. 362 (W.D.N.C.1980)

An opinion by this Honorable Court

will clarify the status of Federal enactments protective of consumers. It is of importance and affects all citizens in such a wide range of activities that it could be said to permeate daily life.

II

The requirement under state law [H & S Code § 18551] that a specific legal form, HCD413, be recorded and copy given to the owner, creates and defines a very valuable property interest to which all purchasers of this type of manufactured home are entitled. [App. p. 125a]

Petitioner submits that recording of this legal document is not part and parcel of the inspection process, as the Appeal Court opined (App. p.30a). An inspection may be made whether or not a document is required to be recorded; a document may be recorded whether or not an inspection is required to be made. Failure to record a legal document is not an activity identified in the State-

enacted immunities laws as being shielded. [Govt. Code §§ 818.4, 818.6]

The legitimate claim of entitlement to a recorded legal document, showing ownership of one's home, a tangible property, must be on a par with entitlement to a horse trainer's license, which the Appeal Court denies. (App. p.34)

> "Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel is in truth a "personal right" whether the property in question be a welfare check, a home or a savings account." LYNCH v. HOUSEHOLD FINANCE CORP., 405 U.S. 538,552(1972)

Petitioner respectfully requests this Honorable Court to consider and determine the status of a legal document.

III

> "The right of protecting property is not the simple right to protection by individual physical force, but is the right to protect property by the law of the land and the force of the body politic"; MECKER v. MANNING, D.C. Conn (1982), 540 F Supp. 131;

To throw a case out of court at a demmur-

rer stage of an action is a serious matter. Such a decision should not be made without examining whether sufficient facts were pleaded to state a viable cause of action.

In the instant case, the 7CA of 5AC met the criteria to state a cause of action under § 1983: (1) the rights affected were stated with particularity; (2) the "state actor" was identified; and, (3) the County policies, and usual and customary practices of the County which proximately caused the deprivations of Petitioner's Constitutional rights to occur, were alleged.

The 8CA of 5AC met its criteria to state a cause of action for conspiracy. In additions to the allegations contained in the 7CA of 5AC Petitioner alleged the goal of the conspirators, the actions taken by each in furtherance of the conspiracy, intent to cause harm to Petitioner, and finally that the County policies proximately caused the achievement of the goal and that Petitioner

suffered the deprivation of multiple Constitutional rights and her property without due process, as a result.

> "Essential elements of any action under section governing civil acts for deprivation of rights are proof of conduct committed by a person acting under color of state law to deprive the person of rights, privileges, or immunities secured by the Constitution or laws of the United States." AVERY v. COUNTY OF BURKE, 660 F. 2d 111 (1981)

The Appeal Court focussed its attention on the 7CA of 2AC alleging tortious conduct regarding performance of mandatory duties, a State law tort [Govt. Code § 815.6].

It decided that this 7CA of 2AC failed to meet its criteria, and that the tortious conduct was shielded by Govt. Code §§ 818.4 and 818.6. It specifically stated that the recording of a document was part and parcel of the inspection process. (App. p. 30a)

Based on this conclusion, and their conclusion that consumer protection laws do not rise to the level of rights protected

by the XIVth Amendment, and that the Federal Act did not contain cognizable benefits, the Court of Appeal decided that Petitioner had suffered no deprivations. (App. p. 35a.) Therefore, they reasoned, the question of whether County policies had been stated (the basis of the lower court's sustaining of County's demurrers to 7CA & 8CA of 5AC), which are necessary in order to plead facts sufficient to state a cause of action under §§ 1983 and 1985, should not be considered (App. p. 36a.)

This line of reasoning is contrary to the individual test criteria for stating causes of action under §§ 1983 and 1985. Neither requires a breach of a mandatory duty by the State actor under color of law.

The only interpretation this decision can be given by a reasonable and prudent person is that:(1) the criteria to be met to state a cause of action under CA Govt. Code § 815.6 is also being applied to the causes

of action brought under §§ 1983, 1985; and (2) the immunities laws are also being applied to these causes of action.

Where two or more causes of action are pleaded in the same suit, and one pleads deprivations of Constitutional rights, and another pleads tortious conduct under State law, and both have had demurrers sustained, whether each should be considered independently, and if not, then, which cause of action should have priority consideration by an Appeal Court, is a question involving the supremacy of the U.S. Constitution, and Federal law, over state law. [Art. VI (2) of the U. S. Constitution, App.p. 59a.]

Each cause of action and its criteria to be met should be considered individually if justice is to prevail.

Petitioner sincerely believes it is of sufficient importance to warrant an opinion by this Honorable Supreme Court.

IV

The California Tort Claims Act contains specific language regarding which actions of governmental entities are protected by immunity. In § 818.4 it states, "A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of . . . any permit, license, certificate, approval, order, or similar authorization . . . where the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked." and § 818.6 states, " A public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, . . for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety." (a) An examination of the language used

in Government Code §§ 818.4, 818.6, clearly shows that Plan-check, tests, reporting, and recording duties are not actions which are specified therein as enjoying immunity. All of these duties are mandated under manufactured housing laws.[Act,§§ 5408(2), 5422(c)(7); CFR §§ 3280.303(a), (b), 3280.304(b)(4), 3280.305(a),3280.306(a)(1) & (2), (b), 3280.610 (c)(5), 3280.612(a), (b)(3), 3280.201, 3280.709 (g)(1)(ii), 18031.5, 3280.715(a)(5)(ii), 3280.810(b), 3282.1(b), 3282.203(b)(10),3282.251(a) (b), 3282.254(a), 3282.402(e); H & S Code §§ 18015, 18025(a),(b), 18025.5(a), (b), 18207, 18300(a), (c), (f), 18503(a), 18550(a), (e), 18551(a)(1), (3), (4)-(6), 18613; CA Adm Code §§ 1004(a)(4), (c), (d), 1020(b), (c)(2), (3), (d),1022(e)(1), (2), 1024(b), 1320, 1326(a), (b), 1333(c)-(e), 1362(a)-(c), 1364, 1366.]

Where these immunities are applied to the issuance of a Certificate of Occupancy that

is called for by an unauthorized person, it raises a serious question of Constitutional law. It would leave all owner-builders who, under State law, are solely responsible for violations, totally unprotected from unscrupulous third parties.

The local governmental entity has a fiduciary duty, under the contract of the permit, to issue the Certificate of Occupancy only on the request of the permittee, and no other.

Petitioner, permittee, owner-builder, not only did not request a final inspection to be made, or the Certificate of Occupany to be issued, she vigorously opposed it.

Whether the County and the Courts are in error when they apply these immunities laws under these particular circumstances, is proper to be decided only by this Court.

(b) Do the immunities laws apply when the deprivation of multiple rights are proximately caused by County policies?

Appeal Court's opinion is in conflict with the lower Court's opinion since neither sustained the demurrer motions (8CA, 2AC; 7CA & 8CA of 5AC) based upon immunity.

The arguments set forth in pps. 42, 44, 45, herein, and the customary and usual practices of the County set forth in pps. 21-23 herein, are applicable.

Where County policies cause deprivation of Constitutional rights, States cannot immunize the "state-actor" from a suit brought under § 1983.

> " Conduct by persons acting under color of law which is wrongful under Civil Rights Act or conspiracy statute cannot be immunized by state law; a construction of the federal statute which permitted a state immunity defense to have controlling effect would transmute the basic guarantee into an illusory promise; supremacy clause of the Constitution insures that the proper construction may be enforced 42 U.S.C.A. §§ 1983, 1985(3). HAMPTON v. CHICAGO, 484 F. 2d 602 (1973) U.S. Court of Appeals Seventh Circuit

(c) In the instant case the harsh reality and an undisputed fact is that the damaged and defective structure remains on

Petitioner's real property to this day, and that she is still without a recorded legal document. Both the home and the document are tangible properties to which Petitioner has an absolute, unqualified entitlement and right, secured by both the U. S. and California Constitutions. County policies proximately caused these deprivations through its actions which furthered the goal of the conspiracy: that this house remain on her real property without cure.

Each conspirator's acts which furthered the conspiracy were set forth in detail in Petitioner's verified pleadings of the 5AC. (see Hampton, supra)

The opinion reached by the Appeal Court in this instance negatively affects any citizen, anywhere. The opportunity to bring their grievance before a Judge and Jury for proper resolution of their Constitutional Rights which have been deprived by County policies, is denied to them.

"... there is no municipal discretion to violate the federal constitution... the dictates of the Constitution are absolute and imperative." OWEN v. CITY OF INDEPENDENCE, MISS. 445 U.S. 622, 100 S. Ct. 1398, 63 L.Ed. 2d 673 (1980) Id. CITY OF NEWPORT v. FACT CONCERTS INC., 453 U.S. 247, 69 L. Ed. 2d 616, 101 S. Ct. 2748 (R.I. 1981);

This case is being thrown out of Court at the demurrer stage through a County policy of asserting immunity.

Whether Courts may expand state immunity laws to shield tortious conduct not enumerated therein, is a decision for this Honorable Court, and will assure uniformity of interpretation of the law.

V.

The problem with this case is that it is not confined to the deprivation of a single right, and single incident. The federal and state laws involved are complex and are intricately interwoven. This case should not be litigated at the demurrer stage. To throw the case out of Court at the demurrer stage defeats due process and deprives

Petitioner of the benefits of presenting documentary evidence and testimony of a witness in support of the facts alleged which are at issue. It denies the full examination of the laws as they relate to the County policies proximately causing the deprivations complained of.

42 U.S.C. § 1983 was enacted by Congress to provide the means of redress when a citizen suffers deprivation of Rights secured by the U. S. Constitution.

> ". . .any rule that penalizes a plaintiff for the mere form in which the pleadings are cast is inherently unfair and deserves to be discarded." BARRINGTON v. A. H. ROBBINS CO. (1985) 39 Cal. 3d 146, 151; 702 P.2d 563; 216 Cal. Rptr.

The Appeal Court based its opinion on a misapprehension of the facts alleged in the verified pleadings.

(App. p. 4a)--The escrow was selected and opened by dealer who gained control over its close by providing false instructions. The closing of escrow was the culmination

of a series of events taken by different participants at various times, but throughout, it was the County policies followed by its agents and representatives and superior officers which permitted, aided and abetted the wrongful conduct, which proximately caused the deprivations to occur.

(App. pps. 5a-8a) The Appeal Court looked first to the 7CA of 2AC and ignored the major complaints set forth with specificity in the 7CA & 8CA of 5AC: multiple deprivations of Constitutional Rights, valuable property interests and property without due process, and the denial of the equal protection of the laws of the land.

(App. p. 6a) The contract contained the notation, "This order contingent upon final acceptance by customer."

(App. pps. 8a-10a) Referring to Question 1: The "routine" inspections by a local enforcement agency apply only to site-built constructions. A manufactured home requires

specific services to be provided and tests to be performed in order to carry out the State Plan, and stem from Federal laws regulating the commercial product. The Act, § 5422(c)(11) mandates compliance with CFR § 3282.302(a)(8), the language of which is mandatory: the State Plan will be carried out in full. The fees to be charged for services set forth in CA Adm Code § 1000 et seq is authorized under H & S Code § 18503.

Question 2. The Appeal Court failed to consider the role of Plan Checkers and all others, including Don Wolfe and Helen Parker, County superior officer, and legal counsel, who ratified all actions of the subordinates. (pps 21-23, 29, 30 herein.)

> "Where Supervisory personnel tolerate known Constitutional deprivations by subordinate personnel, such tacit encouragement can rise to level of policy or custom, thereby subjecting a municipality to liability under § 1983. "Municipalities are liable under§ 1983 for de facto policies or practices which engender Constitutional deprivation; informal actions, if they reflect general policy, custom, practice or pattern of official conduct depriving

> individuals of their Constitutional rights, satisfies § 1983 standards." SPELL v. McDANIEL, 591 F Supp. 1090 (E.D.M.C. 1984)

Question 3. However these failures proximately caused the house to be in nonconformance with the Federal Standards. These County policies proximately caused a prohibited sale to be consummated.

The real question is whether Petitioner is suffering deprivations, and whether these deprivations were proximately caused by a series of actions taken in compliance with County policies.

(App. p 9a-10a) When a person is deprived of her home she is entitled to some relief.

(App. pps 12a-14a) Congress did not intend the benefits of the Act and related regulations to be defeated by local enforcement agencies. Only if the State submits a State Plan and is approved to participate in the Federal Enforcement Program, may a local enforcement agency gain authority under State law to enforce

the Federal Regulations regarding manufactured homes. [Act § 5403(a), (d); CFR § 3282.11(e); H & S Code §§ 18015, 18025(b), 18025.5(a), (b), 18300(f), 18551 (a)(6); CA Adm Code § 1004 (a)-(e)]

A State is authorized under CFR § 3282.302(b)(8) to use the personnel of other agencies to carry out its State Plan. (App. pps 12a-14a) Local land use was not pleaded nor is it an issue. It is totally irrelevant. [CA Adm Code § 1332]

(App. p. 12a) Facts pleaded demonstrate that the County was first involved with the home and manufacturer at the Plan checking stage of the project, in June, 1983. The substituted structure was produced and delivered in August after the County Plan Checkers approved the manufacturer's plans. (App. p. 15a-16a) Petitioner based her theory of general damages on extreme emotional and mental distress and duress proximately caused by County policies as

officially explained and enumerated by County officials at the meeting held in November, 1984, in Supervisor Antonovich's offices. (see pps 21-23, herein)

> "If City impliedly or tacitly authorized , approved or encouraged harrassment of individual, it promulgated "official policy" such that it could be liable under Civil Rights statute; "official policy" may be inferred from informal acts or omissions of supervisory municipal officials." TURPIN v. MAILET 619 F. 2d 196 (2d Cir. 1980) cert. denied, 449 U.S. 1016 (1980)

When a person is deprived of property and has no choice simply to sell it and thus extricate herself from complex problems, that suffering is not to be ignored because the Federal Act did not anticipate and make specific provisions for violations of civil rights in connection with the purchase of the product. Section 5420 of the Act is irrelevant and not alleged in pleadings.

Congress did intend to provide rights [Act § 5421; CFR § 3282.401 et seq.].

(App. p 16a-27a) The requirements to be met to state a cause of action under Govt.

Code § 815.6, according to the cases cited by the Appeal Court came into being in 1989 and 1987. The 7CA of 2AC was written and demurrer heard in 1985-6. The Appeal Court lists H & S Code §§ 18015, 18551, 18613, 18614, but fails to list § 18300 which was included in Petitioner's verified pleadings and which imposes a mandatory duty on the County [H & S Code § 18300(a)-(c), (f)]

An enforcement agency is presumed to know the statutes under its enforcement jurisdiction. In the instant case H & S Code § 17958.3 requires local agencies to obtain and retain in their offices copies of these laws. The reference to the Information Bulletins which were attachments to the 2AC set forth specific sections of California enactments. An example, setting forth documentation requirements of H & S Code § 18551, is in App. p. 125a. Other Bulletins contained the Cal Adm Code §§ regarding test procedures. [CFR § 3280.1, (e)(1),(2)]

An attachment to pleadings may provide the missing necessary facts. In this instance, the mere fact that the laws cited were contained in official Bulletins issued by the HCD (SAA), which are not in themselves an enactment, does not strip the statutes cited therein of their force of law. H & S Code § 18551(a)(6) is not advisory, it is written in mandatory language regarding the recording of the legal document.

(App. p. 25a-27a) Notification of defects to the department (SAA), enures to the benefit of a purchaser, in that procedures which effect speedy remedies are required to be followed by SAAs in the Act and CFRs. [Act § 5422(c) (2), (5); CFR § 3282.301, 3282.302 (b)(1); 3282.8 (b), (e),(f)].

(App. 27a-30a) Immunity is not applicable when the tortious conduct complained of is taken in compliance with County policy and proximately causes deprivations of Rights

protected by the XIVth Amendment.

(App. p. 29a-31a) Recording and reporting duties are not shielded by Govt. Code §§ 818.4, 818.6. Being inapplicable or unconstitutional are two different theories.

Petitioner is attacking the claim of the County in its demurrers that these sections are applicable. When fees are set by statute, based upon time spent in providing the services, the duties imposed by the enactment are mandatory. [Govt. Code § 815.6] Immunity does not apply.

Tests to manufactured homes set forth in CA Adm Code, stem from Federal Standards. This manufactured home is under Regulation by an Act of Congress under the Commerce Clause. Immunity is not applicable.

(App. p. 31a-35a) Consumer protection rights have been dealt with in I, pps 34-40 herein.

> "The equal protection clause guarantees to all persons under like circumstances that they shall have equal protection and security in the enjoyment of

> personal and civil rights in the acquisition and enjoyment of property in the enforcement of contracts and in the prevention and redress of wrongs." PEOPLE v. FINLEY, 150 C 59, 94 P. 248, Aff'd. 222 U.S. 28, 56 LEd 75 MULKEY v. REITMAN, 64 C2d, 50 CAL Rptr. 881, 413 P2d 825, affd. 387 US 369, 18 L.Ed 2d 830, 87 S Ct 1627; PURDY & FITZPATRICK v. STATE, 71 C2d 566, 79 CAL Rptr 77, 456 P2d 645,38 ALR 3d 1194;

(App. p. 32a) The test whether Due Process rights are violated, as Mr. Justice Cardoza is quoted in the Appeal Court's opinion were met by Petitioner. The basic and fundamental rights alleged to be affected in her verified pleadings include the right to: contract; own and hold title to the improvement on her real property; live peacefully and safely in her home; defend herself and her property; and dispose of her property.[App p 59a-61a]

The U. S. Constitution and Vth and XIVth Amendments prohibit a State from depriving a person of property without due process.

> "The inalienable rights to acquire, contract, own, enjoy, protect and dispose of property, are among the

civil rights that were intended to be protected from discriminatory state action by the due process clause of the Federal Constitution. MILLER v.McKENNA, 23 C2d 774, 147 p.2d 531; SEI FUJII v. STATE 38 C 2d 718, 242 P2d 617; PEOPLE v. TAGGART, COLO (1981) 621 P2d 1375

"DEPRIVATION OF PROPERTY" does not require actual physical taking but occurs when free use and enjoyment or power of disposition is affected"; McINNES v.McKAT, (1928) 141 A, 699, 127 MC. 110 affrmd 49 S. Ct. 344, 279 U.S. 820, 73 L.Ed 975;

The statement by Appeal Court that "There was no deprivation of a constitutional right in the instant case . . . " shocks the conscience. The Appeal Court failed to consider the gravamen of this egregious situation. Petitioner respectfullly would point out that a damaged house which is not in conformance with the Federal Standards, which would not pass in the trade as fit for the ordinary purpose for which it was intended and ordered, and which was substituted for the home she agreed to purchase, has remained on Petitioner's real property since 1983 to the date of writing

this Petition for Writ of Certiorari.

Whether the California Appeal Court's Opinion should be overturned and Petitioner granted the right to go to trial on the issues is a personal matter affecting only Petitioner. But, the underlying reasons upon which the Appeal Court based its opinion, and which are preventing Petitioner from redress under §§ 1983 and 1985, affect all persons in the future, in California, who may be subjected to County demurrers based upon state-enacted immunity laws.

CONCLUSION

Without an opinion by this Honorable Supreme Court declaring that Petitioner has a right to present her case to a Court of competent jurisdiction, and to a jury to determine the facts, her right of redress for the wrongs suffered, including the taking of her property without due process, and the denial of the equal protections of

the manufactured home laws, both Federal and state, will be denied forever.

An Opinion by this Honorable Court is urgently necessary regarding the four questions asked: the status of Federal consumer protection laws; the property rights of citizen's in their legal documents; the priority of Constitutional causes of action over State tort actions; and the reminder that State-enacted immunities laws are not applicable to suits brought under §§ 1983, 1985(3), and that a law must be interpreted in conformance with its language.

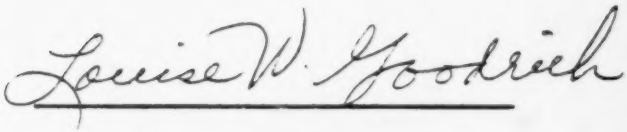
This Supreme Court's answers to these questions are of universal interest to all persons who are entitled to the guarantees of the United States Constitution.

This is a case involving the Supremacy of the United States Constitution, the Federal Laws promulgated thereunder, and the rights protected by the Vth and XIVth

Amendments.

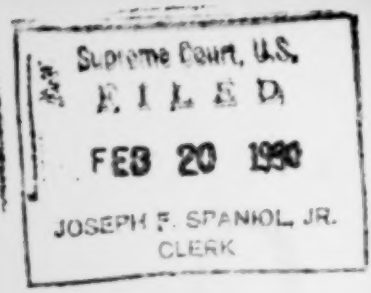
For all of the foregoing reasons, Petitioner respectfully requests this Honorable Supreme Court to grant this Petition for Writ of Certiorari.

Respectfully submitted,



LOUISE W. GOODRICH
in propria personna

89-1328



No._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

LOUISE W. GOODRICH,

Petitioner,

v,

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE
CALIFORNIA COURT OF APPEAL,
SECOND APPELLATE DISTRICT, DIVISION SEVEN

APPENDIX, DECISION OF COURT OF APPEAL
(Volume Two, of three volumes)

Louise W. Goodrich
16187 East Deeplake Avenue
Palmdale, California 93550
(805) 264-4702

Louise W. Goodrich,
in propria persona

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60 pp

APPENDIX A

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION SEVEN

LOUISE W. GOODRICH, Plaintiff and Appellant, v. COUNTY OF LOS ANGELES, Defendant and Respondent.	No. B034661 (Super. Ct. No. C566070)

[stamp]

COURT OF APPEAL SECOND DIST.
F I L E D

AUG 11 1989

ROBERT N. WILSON Clerk

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT

DIVISION SEVEN

LOUISE W. GOODRICH, Plaintiff and Appellant, v. COUNTY OF LOS ANGELES, Defendant and Respondent.	No. B034661 (Super. Ct. No. C566070)

APPEAL from an order of the Superior Court of Los Angeles County. Howard J. Schwab and Robert L. Roberson, Judges. Affirmed.

Fizzolio, Fizzolio & McLeod and James M. Fizzolio, for Plaintiff and Appellant.

De Witt W. Clinton, County Counsel, for Defendant and Respondent.

INTRODUCTION

Plaintiff, Louise W. Goodrich, appeals from an order dismissing the County of Los

Angeles from her action after the County's demurrers to a series of amended complaints were sustained without leave to amend. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On September 18, 1985, appellant, Louise W. Goodrich, hereafter "Goodrich", filed her complaint against respondent, Los Angeles County, hereafter "County", and against other individual and corporate defendants. The action pertained to Goodrich's purchase in 1983 of a manufactured-to-order home. The home was installed on a permanent foundation on Goodrich's residential lot, which was not located in a mobilehome park.

Goodrich alleged, in general, that the escrow which was opened to facilitate her purchase of the subject manufactured home was closed without a proper inspection of the home by the Los Angeles County Building and Safety Department thereby resulting in

damages to her.

There is no dispute that the manufacturing of the home was subject to the Federal Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401. et seq.) and all state and county statutes and ordinances enacted in accordance with the provisions of the federal Act.

The remaining defendants, who were sued based on theories of breach of express and implied warranties, fraud and conspiracy, included the manufacturer, distributor, contractor, escrow company and various agents thereof, are not parties to this appeal.

Goodrich amended her complaint a number of times after the demurrers were sustained. Goodrich's second amended complaint against the County contained a seventh cause of action for breach of mandatory and non-delegable duties. The County's demurr-

er to this cause of action was sustained without leave to amend.

Goodrich's fifth amended complaint also contained a seventh cause of action against the County for deprivation of constitutional rights. An eighth cause of action in the fifth amended complaint contained allegations against the County for conspiracy to deprive her of constitutional rights. The County's demurrers to these causes of action were likewise sustained without leave to amend and the County was subsequently dismissed from the action.

A summary of Goodrich's efforts to plead legally sufficient causes of action against the County is as follows:

Theory of County's Liability As Contained In Goodrich's Initial Complaint

In the initial complaint, Goodrich, in summary, pled that the real source of her damage resulted from the closing of an escrow which she had opened to facilitate the purchase of her made-to-order manufactured

home. Allegedly the escrow closed following an inadequate inspection and an improper approval and certification for occupancy by one Severino Gaba, an inspector for the County, employed by the County Engineer - Facilities, Building and Safety Division, Lancaster Office.

Distillation and Interpretation Of* Allegations Against The County As Contained In Goodrich's Second Amended Complaint.

Goodrich alleges in the seventh cause of action of her second amended complaint as follows:

1. "It was encumbent on Defendant COUNTY under Health & Safety Code §§ 18551, 18613, 18614, to monitor the installer's work,

---

* Goodrich's method of pleading by incorporating allegations from previously pled causes of action into her seventh cause of action has led to difficulty with respect to analysis of the seventh cause of action of the second amended complaint. The distillation and interpretation of the seventh cause of action has by necessity caused this court to set forth both verbatim quotations and reasonable inferences from the language of Goodrich's pleadings.

---

perform certain tests, and make a final inspection . . . and in the event defects or damages, or non-compliances were found to be present in the structure, to send a written report of same to the HCD . . . ."

2. Under the terms of the escrow, Goodrich's purchase price was to be released from escrow "upon the completion of Final Inspection Approval and issuance of a valid Certificate of Occupancy, and when both parties had satisfactorily performed the terms of the contract."

3. The County did not issue form HCD 413, which was developed by the Department of Housing and Community Development (hereafter "HCD") to be used by enforcement agencies as the only certificate of occupancy that the manufactured home had been properly manufactured and installed. The form was to be recorded.

4. Through Gaba, respondent issued an improper Final Inspection Approval and an

invalid Certificate of Occupancy.

5. The inspection by Gaba was inadequate and improper.

6. The County did not make the inspection required by §§ 18613 and 18614.

7. "By reason of the foregoing acts and omissions to act, Defendant COUNTY breached its mandatoy and non-delegable duties of inspections, testing, monitoring and enforcing compliance with the laws by Defendants BRATTON and PADILLA. Said Defendant COUNTY violated Health & Safety Code § 18015 and 18551 . . . ."

Summary Of The Allegations Against The County In Goodrich's Fifth Amended Complaint

In the seventh and eighth causes of action against the County in her fifth amended complaint, Goodrich attempted to state the laws which the County allegedly violated thereby depriving Goodrich of a property interest (in the enforcement of said laws) protected by the Constitution.

The seventh cause of action alleged in detail how the County failed to perform certain functions as required by the National Manufactured Home Construction and Safety Standards Act of 1974 and the various federal, state and county regulations promulgated pursuant thereto, resulting in a deprivation of Goodrich's constitutional rights.

The eighth cause of action contains allegations of a conspiracy to deprive Goodrich of the enforcement of the laws alleged in the seventh cause of action.

Following the dismissal of the County from Goodrich's action, Goodrich filed a timely notice of appeal.

ISSUES ON APPEAL

1. By enacting the Federal Manufactured Home Construction and Safety Standards Act of 1974, did Congress intend to preempt state and local building and safety laws pertaining to routine safety inspections of installed manufactured homes by local building and safety inspectors?

2. Is the County liable for breach of mandatory duties for the failure of its

building and safety inspector to properly inspect, and certify for occupancy, Goodrich's installed manufactured home?

3. Was Goodrich deprived of any constitutional rights by the failure of the County's agent to properly inspect the installation and to properly approve for occupancy Goodrich's manufactured home?

Goodrich contends that she sufficiently pled causes of action against the County for breach of mandatory duty, deprivation of constitutional rights and conspiracy and that the trial court erroneously sustained the County demurrers without leave to amend and that the subsequent dismissal of the County from the action was likewise erroneous. We disagree.

DISCUSSION

It is well settled that a general demurrer admits the truth of all material factual allegations in the complaint and that the question of plaintiff's ability to prove these allegations, or the possible difficulty in making such proof, does not concern the reviewing court. (Alcorn v.

Anbro Engineering, Inc. (1970) 2 Cal.3d 493, 496.) The plaintiff need only plead facts showing that she may be entitled to some relief. (Ibid.) If Goodrich in the instant case pled facts entitling her to relief, then the trial court erred in sustaining the County's demurrers and in dismissing the County from the action.

1.

The Federal Manufactured Home Construction And Safety Standards Act Does Not Preempt Local Building And Safety Ordinances And Routine Inspections Thereunder

The paramount issue which permeates Goodrich's attempts to state a viable cause of action against the County stems from her assertion that the County failed in this instance to follow the provisions of the Federal Manufactured Home Construction and Safety Standards Act of 1974 (hereafter "the Federal Act"). Goodrich contends that the Federal Act and all state and county statutory enactments and regulations enacted in accordance with the Federal Act were

pertinent and that the County inspector who inspected the installation and approved it for occupancy was obligated on behalf of the County to follow the dictates of those laws and regulations. Goodrich further asserts that the County agent and inspector having failed to so comply, her escrow to facilitate purchase of her manufactured home should never have been closed and that she has been damaged thereby.

Goodrich's contentions that the Federal Act pre-empts local law is accurate in those areas where the local law is inconsistent with the Federal Act. We need not address this contention, however, since we hold that the United States Congress did not intend the Fedral Act to apply to the type of factual situation extant in this case as hereafter discussed.

Initially, a careful reading of the relevant sections of the Federal Act manifestly reveals that Congress expressed

no intention to interject itself by way of the enactment, into local land use or local building and safety regulations of a routine nature. The Federal Act patently refers to pre-emption regarding "construction or safety" of manufactured homes. (42 U.S.C.§ 5403(d).)

In this instance, the action of the County inspector pertained clearly to an inspection of the installed home at the site on behalf of the County's division of building and safety and subsequent approval for occupancy. The record does not reveal the slightest suggestion that the County inspector was involved with the manufacturer of a home as contemplated by the Federal Act. The home had already been manufactured and installed at the site before the County inspector was involved. Reliance on the Federal Act by Goodrdich in this instance is clearly misplaced.

The relationship between the Federal

Act and local land use is discussed by the Nichigan Supreme Court in Gackler Land Co., Inc. v. Yankee Springs Tp. (Mich. 1986) 398 N.W.2d 393. In view of the absence of California and federal case authority on the issue, we find the comments by the Michigan Supreme Court in Gackler Land Company to be persuasive in this instance. In discussing the question of the applicability of the Federal Act to local zoning ordinances in the State of Michigan, the Michigan Supreme Court held as follows:

> "III. Is the Zoning Ordinance Invalid Because It is Preempted by Federal and State Law and Was Not Enacted Pursuant to the Michigan Mobile Home Commission Act?
>
> "The plaintiff also contends that certain portions of the zoning ordinance are preempted by federal and state law, specifically, the National Manufactured Home Construction and Safety Standards Act 42 U.S.C. § 5401 et seq.; the State Construction Code Act, M.C.L. §§ 125.1519, 125.1520; M.S.A. §§ 5.2949(19), 5.2949(20); and the Mobilehome Commission Act, M.C.L. § 125.1101 et seq.; M.S.A. § 19.855(1) et seq. Both the trial court and the Court of Appeals disagreed with plaintiff, finding that

the various acts provide construction and safety standards, not standards concerning proper land use, which is the thrust of zoning laws. We believe the lower courts have properly interpreted these statutes.

"The purpose of the federal act is set forth in 42 U.S.C. § 5401: [Par] `The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for manufactured homes and to authorize manufactured home safety research and development. (Emphasis added.)'

"Further, § 5403(d) provides that no state or political subdivision thereof may establish a standard regarding construction or safety of any manufactured home covered under the act. The requirements of the zoning ordinance in the case at bar are not standards regulating the construction or safety of mobile homes. Rather, they have for their purpose the regulation of where mobilehomes may be placed and under what conditions. These requirements are for the purpose of regulating land use and therefore do not conflict with standards promulgated under the federal Manufactured Home Construction and Safety Standards Act. Accord Brookside Village v. Comeau, 633 S.W. 2d 790 (Tex. 1982), cert. den. 459

U.S. 1087, 103 S.Ct. 570, 74 L.Ed.2d 932 (1982)." (Id., at pp. 400-401.)

Secondly, Goodrich has alleged a theory of general damages against the County which are based upon a relationship between the alleged improper closing of her escrow and an alleged faulty inspection and issuance of a certificate of approval for occupancy by the County building and safety inspector. We search in vain to find a provision for such damages in the Federal Act. Even if this court were to be persuaded that the Federal Act was applicable to this escrow, the only provision in the Federal Act pertaining to damages is found in §§ 5420 as follows:

> "Any person, other than an officer or employee of the United States, or a person exercizing inspection functions under a State plan pursuant to § 5422 of this title, who knowingly and wilfully fails to report a violation of any construction or safety standard established under § 5403 of this title may be fined up to $1,000 or imprisoned for up to one year, or both."

The damages referred to in section 5420

are "penalties" which include a $1,000 fine or imprisonment for up to one year, or both, for violation of the act. This provision is "penal" in nature and has no relevance to a civil lawsuit for damages such as the instant one filed by Goodrich.

2.

The County Is Not Liable To Goodrich For Any Purported Breach Of Mandatory Duty

Goodrich next contends that the County is liable for its failure to discharge a mandatory duty pursuant to Government Code § 815.6. Government Code § 815.6 provides that: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercized reasonable diligence to discharge the duty."

A plaintiff must meet the requirements

of a three-prong test to rcover under Government Code § 815.6.First, the plaintiff must establish that the "enactment" imposes a mandatory, and not discretionary, duty. (Gray v. San Francisco Gun Exchange, Inc. (1989) 207 Cal. App.3d 151, 155.) Second, a plaintiff must prove that the enactment is designed to guard against the type of injury suffered by the plaintiff. (Ibid.) Third, the plaintiff must demonstrate that the breach of the mandatory duty proximately caused the injuries. (Ibid.)

"`[A] litigant seeking to plead the breach of a mandatory duty must specifically allege the applicable statute or regulation.'" (Sullivan v. City of Sacramento (1987) 190 Cal.App.3d 1070, 1080.) "Unless the applicable enactment is alleged in specific terms, a court cannot determine whether the enactment relied upon was intended to impose an obligatory duty to take official action or whether it was merely

advisory in character." (Ibid.)

Our first difficulty in evaluating Goodrich's contention is in determining what enactments Goodrich is contending that the County breached. In the seventh cause of action of the second amended complaint, Goodrich alleges that the County breached its duties under Health and Safety Code sections 18551, 18613 and the regulations enacted thereunder. The only regulations mentioned in the second amended complaint are HCD Information Bulletins MH-79-20 and MH-79-21 and a county memorandum dated October 27, 1981. In her reply brief, Goodrich states that the sale was governed by Health and Safety Code sections 18550, 18551, et seq.

For the purposes of this appeal, we assume that Goodrich is contending that the County breached mandatory duties under Health and Safety Code sections 18015, 18551, 18613, 18614. Although other enact-

ments are alluded to, these statutes are the only ones identified in the seventh cause of action of the second amended complaint as having been breached. In the second amended complaint, Goodrich inferentially alleges that the County breached a duty under HCD Information Bulletins to use HCD Form 413 by failing to complete and have it recorded.

At this point we direct our attention to the HCD Information Bulletins. Is this Court required to give "force of law" status to the information bulletins alluded to in Goodrich's pleadings? We think not. Pursuant to Government Code section 810.6, an "`enactment' means a constitutional provision, statute, charter provision, ordinance or regulation." (Emphasis added.) In order to be a regulation having the force of law (i.e., one capable of imposing a mandatory duty per Govt. Code § 815.6), a regulation of a state agency, such as HCD,

must be adopted pursuant to the Administrative Procedure Act, Government Code, section 11340 et seq. (Govt. Code § 811.6.)

Pursuant to Evidence Code section 452, subdivision (b) and section 454, subdivision (a)(1), 2* we judicially note that, according to HCD, information bulletins are not adopted pursuant to the Administrative Procedure Act and are not enactment intended to have the force of law rather the bulletins are explanatory mamoranda to the industry.

Hence, the information bulletins iden-

2* Evidence Code section 452, subdivision (b) provides that judicial notice may be taken of "[r]egulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States."

Evidence Code section 454, subdivision (a)(1) provides that information which may be used in taking judicial notice includes "[a]ny source of pertinent information, including the advice of persons learned in the subject matter, may be consulted or used, whether or not furnished by the party ." (Emphasis added.)

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tified in the complaint are not regulations which can impose a mandatory duty on the county. Since Goodrich is not specific and only identifies the county memorandum alluded to in her pleadings by date, we infer that the county memorandum is likewise not a regulation having the force of law status so as to impose a mandatory duty on the county.

We next turn our attention to the statutes which Goodrich contends imposes mandatory duties on the County. Consistent with the definition of "enactment" as used in Government Code section 815.6, "mandatory duty liability ordinarily is based upon noncompliance with specifically described duty imposed by a constitutional provision, a state or federal statute, or a regulation that has the force of law." (Emphasis added.) (Van Alstyne, Cal. Government Tort Liability Practice, (Cont. Ed.Bar 1980) § 2.42, p. 95.)

Where Courts have concluded that a governmental mandatory duty exists as a condition precedent to issuing a permit, the particular enactment usually contained language such as "each and every county shall require." (Young v. Inglewood (1979) 92 Cal.App.3d 437 [Duty imposed by Bus. & Prof. Code., § 7031.5 to secure evidence that contractor applying for building permit is duly licensed.]; (Morris v. County of Marin (1977) 18 Cal.3d 901 [Duty imposed by Lab. Code., § 3800 that county obtain a certificate of workers' compensation coverage from all applicants for building permits.].)

Other mandatory duties exist when the enactment dictates a specific directive. (Johnson v. Mead (1987) 191 Cal.App.3d 156 [Duty imposed by Veh. Code section 12805 not to issue or renew a driver's license if the department had determined beforehand that the person was unable to safely oper-

ate a motor vehicle.]; Sullivan v. County of Los Angeles (1974) 12 Cal.3d 710 [Duty imposed by Pen. Code., § 1384 to release prisoner upon dismissal of all charges.] Kane v. County of San Diego (1969) 2 Cal. App.3d 550 [Duty imposed by Food & Agr. Code., §§ 31107-31108 to give owner notice prior to destruction of impounded dogs.].)

In her complaint, and likewise in her briefs on appeal, Goodrich refers to mandatory duties without linking the elaborated duties to the statute which Goodrich contends imposes the duty. Since we were left with the onerous task of deciphering what statutes impose the duty which Goodrich contends that the County breached, we conclude that Goodrich failed to sufficiently comply with Government Code section 815.6. A plaintiff must plead not only the specific enactment which imposes a mandatory duty, but also, where several enactments are pled, identify for each enactment

the specific duties imposed.

In spite of Goodrich's manifest failure to comply with Government Code section 815.6, we nevertheless reluctantly turn to an analysis of the allegations of the second amended complaint, as previously set forth in the"factual and procedural background" of this opinion, in applying the aforementioned principles to the seventh cause of action for breach of mandatory duty.

Former Health and Safety Code section 3* 18015 (added by Stats. 1981, c. 975, § 3, p. 3728) imposed no mandatory duty on any entity, but simply states that: "The department [HCD, § 18206] may promulgate regulations . . . ."
(Emphasis added.)

Former Health and safety Code section 18551 (amended by stats. 1980, ch. 1149, §

3* We cite to former sections as these sections have been amended since the events in question in this matter.

40, p. 3774) provided that the HCD shall establish regulations for mobilehome foundation systems. No reference is made to local enforcement agencies other than in the context of the requirements for obtaining a building permit by the mobilehome owner or a licensed contractor and in the requirement that the agency record a document naming the owner of the real property on which the mobilehome has been installed.

Reliance on section 18551 by Goodrich in this instance is misplaced. We find nothing in the statute which could be interpreted as creating mandatory duties to Goodrich by the County under the facts of this case with subsequent liability by the County for breach thereof. Section 18551 does not apply to a routine building and safety inspection of an "installed" mobilehome by a County inspector prior to issuance of a certificate of occupancy.

Former Health and Safety Code sections

18613 (amended by Stats. 1982, ch. 928, § 3, p. 3328) and 18614 (amended by stats. 1979, ch. 1152, § 131, p. 4283) do mention the local enforcement agency. Under former section 18613, the installation contractor had a duty to obtain a permit and complete the installation in accordance with building standards. Former section 18613 provided that: "If inspection of the mobilehome installation by the enforcement agency determines that the mobilehome cannot be approved for occupancy due to defective material . . . [t]he enforcement agency shall immediately notify the department whenever any mobilehome cannot be approved for occupancy due to defects of the mobilehome." Former section 18614 likewise provided that the enforcement agency shall notify the registrar of contractors if the installation of a mobilehome by a contractor failed the inspection.

We fail to discern any mandatory duties

on the part of the County to Goodrich from the statutes pled by Goodrich. The statutes to which Goodrich makes reference do indeed impose duties on designated persons, but the duties inure to the benefit of the "department" which is required to be informed of deficiencies in mobilehomes through a designated reporting process. We are unable to interpret former section 18614 as creating a duty to persons situated as is Goodrich in this case.

County contends, arguendo, that even though it might be liable for damages caused by its failure to carry out a mandatory duty (which is not apparent from the statutes pled by Goodrich), it is immune from liability for inadequate or faulty inspections under Government Code section 818.6. 4* and for approving and issuing a

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4* Govermnent Code section 818.6 provides that: "A public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inade-

---

certificate of occupancy under Government Code section 818.4.* We agree and observe that since governmental immunity is a question of jurisdiction, lack thereof can preclude a cause of action. (Buford v. State of California (1980) 104 Cal.App.3d 811, 826.)

Furthermore, "[t]he purpose of Government Code section 818.6 is to protect public entities from liability not only for failures to detect technical safety code violations, but for any negligence directly connected to the inspection process itself.

---

quate or negligent inspection, of any property . . . for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety."

5* Government Code section 818.4 provides that: "A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate approval, order, or similar authorization where the public entity or an employee of the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked."

In order for the immunity to apply, the negligence in question must have been part and parcel of the inspection or have had a direct or proximate effect on it, either impairing its value, frustrating its goals or purposes, affecting the results or findings made, or in some other way resulting in damage to the investigation itself. Conversely, the immunity does not protect public entities from liability for negligent acts or omissions that happen to occur while the inspection is taking place, but which do not affect the results or goals of the inspection itself." (Emphasis added.) Cochran v. Herzog Engraving Co. (1984) 155 Cal.App.3d 405, 412.)

Since the purported act carried out by the County's building and safety inspector, Severino Gaba, was the inspection process and since the necessity to report to HCD or the registrar of contractors and the necessity to record a document naming the owner

of the real property on which the mobile-home has been installed are part and parcel of the inspection process, under the reasoning in Cochran, the County is immune from any liability for failing to make a proper inspection or issuing an invalid certificate of occupancy. It has been held that: "inspection of property for compliance with codes and regulations is the means by which the public entity carries out its mandatory duty of enforcing compliance with codes and other building standards." (Harshbarger v. City of Colton (1988) 197 Cal.App.3d 1335, 1346.)

3.

Goodrich Was Not Deprived Of Any Constitutional Rights (by Conspiracy or otherwise) Since No Fundamental Constitutional Right Was Involved Or Affected By The Actions Of The County

Goodrich contends that she was deprived of her constitutional rights under due process and equal protection clauses of the Fifth and Fourteenth Amendments to the

United States Constitution and under the Civil Rights Act (42 U.S.C. § 1983, hereafter "Section 1983"). Goodrich is incorrect.

Whether analysed as a due process, equal protection or Section 1983 claim, there must be a constitutional right which has been affected. Goodrich claims that she was deprived of the right to acquire, enjoy, own and dispose of property. However, Goodrich is not attacking any of the statutes or regulations themselves as being unconstitutional, rather the essence of her claim is that administrative noncompliance with the manufactured housing laws (the federal Manufactured Home Construction and Safety Standards Act of 1974 and the various federal, state and county regulations promulgated pursuant thereto) violated her constitutional rights.

"Due process of law is a summarized constitutional guarantee of respect for

those personal immunities which, as Mr. Justice Cardoza twice wrote for the Court, are `so rooted in the traditions and conscience of our people as to be ranked as fundamental,' (citation) or are `implicit in the concept of ordered liberty.' [Citation]" (Rochin v. California (1951) 342 U.S. 165, 169.) Consumer protection rights are not so rooted in tradition as to be considered fundamental rights.

In order for procedural due process rights to apply, a state or federal law must create a "'legitimate claim of entitlement'" within the protection of the due process clause. (Memphis Light, Gas & Water Div. v. Craft (1978) 436 U.S. 1, 11-12.) The issue of when such an interest rises to the level of a constitutionally protected property interest or entitlement is a question of federal, not state, law. (Logan v. Zimmerman Brush Co. (1982) 455 U.S. 422, 432.)

"To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. (Paragraph.) Property interests, of course, are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law --rules or understandings that secure certain benefits and that support claims of entitlement to those benefits. Thus, the welfare recipients in (citation) had a claim of entitlement to welfare payments that was grounded in the statute defining elegibility for them." (Board of Regents v. Roth (1972) 408 U.S. 564, 577.)

Courts have determined that a claim of entitlement existed to a driver's license, a horse trainer's license, utility service,

disability benefits, high school education, government employment, and welfare benefits (See cases collected in Logan v. Zimmerman Brush Co., supra, 455 U.S. 422, 431.) In Logan, the Court determined that the plaintiff's FEPA (Fair Employment Practices Act) claim was a protected property interest. (Ibid.)

Goodrich cites no cases where any consumer protection statute has been held to confer a legitimate claim of entitlement or to constitute a protected property interest. In reading the complaint, we do not discern any benefit which is analogous to those benefits which have been determined to be entitled to constitutional protection Basically, to accept Goodrich's argument, we would have to recognize a claim of entitlement to the enforcement of all the manufactured housing laws. We decline to accept that invitation. We conclude that the manufactured housing laws do not con-

tain a cognizable benefit and therefore do not confer a property interest. Thus, Goodrich's due process rights were not violated.

To successfully assert a violation of the equal protection clause, the prerequisite of a suspect class or a fundamental right must first exist. (Purdy & Fitzpatrick v. State of California (1969) 71 Cal. 2d 566, 578-579.) Consumers are not a suspect class and, as discussed in this opinion, no fundamental right was violated Accordingly, there was no violation of Goodrich's equal protection rights.

"[T]he touchstone of the § 1983 action against a government body is an allegation that official policy is responsible for a deprivation of rights protected by the Constitution." (Monell v. New York City Dept. of Social Services (1978) 436 U.S.658, 690.) There was no deprivation of a constitutional right in the instant case so we

need not address the issue of whether or not the complaint contained facts establishing such an alleged policy by the responding entity.

Thus, we conclude that Goodrich did not successfully plead a cause of action for deprivation of constitutional rights.

Finally, "[a] civil conspiracy, no matter how manifest and egregious, does not give rise to a cause of action unless an underlying civil wrong has been committed resulting in damage." (Manor Investment Co. v. F. W. Woolworth Co. (1984) 159 Cal.App.3d 586, 595.) Since Goodrich did not sufficiently plead a cause of action for the deprivation of constitutional rights, her cause of action for a conspiracy to deprive her of her constitutional rights also fails.

DISPOSITION

The order is affirmed. The County to recover costs on appeal.

NOT TO BE PUBLISHED.

WOODS (Fred), J.

I concur:

LILLIE, P.J.

NOT TO BE PUBLISHED

JOHNSON, J.

I concur in the judgement. I write separately to emphasize a point raised by the majority. In this case, the court must determine whether the federal manufactured Home Construction and Safety Standards Act (the Act) creates a mandatory duty upon the state and its subdivisions to inspect mobile homes for defects complained of here. As the majority properly concludes, no such duty exists.

The difficulty in resolving this issue lies not so much with the legal analysis required, but with unravelling a complex statutory and regulatory scheme found both

in the federal and state systems. The difficulty is exascerbated in this instance because of the inadequate briefing by the parties. Although the issue presented is clear, the parties inexplicably fail to adequately join in the discussion.

A review of the federal act, and the regulations promulgated thereunder, fails to disclose any mandatory requirement that either federal or state inspectors examine a mobile home for installation defects. To the contrary, if a state voluntarily chooses to participate in the enforcement of the federal standards, it is only encouraged, but not required, to provide for the "monitoring of the installation of manufactured homes set up in the State to assure that the homes are properly installed and, where necessary, tied down." (24 C.F.R. § 3282.303.)

The Act itself is also bereft of mandatory language. The only apparent statute

which is relevant to the plaintiff's claim is 42 U.S.C. § 5413(a) which provides: "The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal manufactured home construction and safety standards established under this chapter or otherwise to carry out his duties under this chapter."

As was true of the federal regulation, the statute's language is only discretionary; it does not mandate inspections for compliance with the safety requirements. The absence of mandatory language in either the federal statutes or regulations eviscerates the plaintiff's claim of a mandatory duty. (Posey v. State of California (1986) 180 Cal.App.3d 836, 848.) Accordingly, the inescapable conclusion is no mandatory duty exists on the part of the state and the plaintiff's action based upon this theory must fail. I disagree, however,

with the majority's suggestion that if a mandatory duty was imposed by the Act, the county would nonetheless be immune from liability under Government Code sections 818.4 and 818.6. Unquestionably, these Government Code sections would ordinarily bar actions against a public entity for negligently inspected or approving defective property.(Govt. Code, §§ 818.4; 818.6.)

However, to the extent any duty to inspect or approve mobile homes is required by the Act, either directly or by the state's voluntary election to enforce the safety standards mandated by the Act, federal preemption in this area would supercede the State's immunity statutes. (42 U.S.C., §§ 5403(d); 5422(b); 24 C.F.R. § 3282.302.) To otherwise permit the immunity statutes to apply would impair "the Federal superintendence of the [mobile] home industry as established by the Act" by negating the mandatory nature of the standards im-

posed. (24 C.F.R. §3282.11(e); see Scurlock v. City of Lynn Haven, Fla. (11th Cir. 1988) 858 F.2d 1521, 1523-1524.) Accordingly, had the Act created a mandatory duty here, I would conclude federal preemption and the Supremacy Clause supercedes the state's immunity statutes.

NOT TO BE PUBLISHED

JOHNSON, J.

APPENDIX B

ORDER DENYING REVIEW

AFTER JUDGEMENT BY THE COURT OF APPEAL

Second Appellate District, Division Seven,

No. B034661

S012128

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

SUPREME COURT
F I L E D

NOV 21 1989

Robert Wandruff Clerk
DEPUTY

ORDER DENYING REVIEW

AFTER JUDGEMENT BY THE COURT OF APPEAL

Second Appellate District, Division Seven,

No. B034661

S012128

IN THE SUPREME COURT OF THE STATE OF

CALIFORNIA

IN BANK

LOUISE W. GOODRICH, Appellant

v.

COUNTY OF LOS ANGELES, Respondent

Petition for review DENIED.

[stamped as follows]

SUPREME COURT
F I L E D

NOV 21 1989

Robert Wandruff Clerk
DEPUTY

LUCAS, C.J.

Chief Justice

Second Appellate District, Division Seven,

No. B034661

S012128

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

GOODRICH

v.

COUNTY OF LOS ANGELES

The time for granting or denying review in the above cause is hereby extended to and including December 19, 1989, or the date upon which review is either granted or denied.

[stamped as follows]

SUPREME COURT
F I L E D

NOV 14 1989

Robert Wandruff Clerk
DEPUTY

LUCAS, C.J.

Chief Justice

APPENDIX C

ORIGINAL FILED
MAR 31 1988
COUNTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LOUISE W. GOODRICH Plaintiff, v. REDMAN HOMES, INC. et al., Defendants.	CASE NO. C 566 070 ORDER OF DISMISSAL OF ACTION AS TO DEFENDANT, COUNTY OF LOS ANGELES,ONLY, AFTER COURT'S SUSTAINING OF DEMURRERS WITHOUT LEAVE TO AMEND

DE WITT W. CLINTON, County Counsel
PAUL T. HANSON, Principal Deputy County Counsel
500 West Temple Street
652 Hall of Administration
Los Angeles, California 90012
(213) 974-1841

[stamp]

Attorneys for Defendant
COUNTY OF LOS ANGELES

ORIGINAL FILED
MAR 31 1988
COUNTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LOUISE W. GOODRICH Plaintiff, v. REDMAN HOMES, INC. et al., Defendants.	CASE NO. C 566 070 ORDER OF DISMISSAL OF ACTION AS TO DEFENDANT, COUNTY OF LOS ANGELES,ONLY, AFTER COURT'S SUSTAINING OF DEMURRERS WITHOUT LEAVE TO AMEND

(Code Civ. Proc., § 581(f)(1); Law Dept. Policy Manual, § 224(b).)

The motion of defendant, County of Los Angeles ("County"), for dismissal of this entire action as to it, which was combined with County's general demurrer to the

Seventh and Eighth Causes of Action of the Fifth Amended Complaint of Plaintiff, Louise W. Goodrich ("Goodrich"), came on for noticed hearing before me at 9:00 a.m. on March 4, 1988, in Department V.N. "F."

De Witt W. Clinton, Los Angeles County Counsel, by Paul T. Hanson, Principal Deputy County Counsel, appeared as attorney for defendant and moving party, County.

Plaintiff, Louise W. Goodrich, was present and was represented by her attorneys of record, Fizzolio, Fizzolio and McLeod, by James M. Fizzolio.

Oral argument was heard and the County's general demurrers to the Seventh and Eighth Causes of Action of the Fifth Amended Complaint, the only causes of action of that complaint directed at or asserted against the County, were granted without leave to amend and this motion for dismissal was granted.

It appears from the records,

declarations, pleadings and the file herein that:

1. County's general demurrer to the Fifth Amended Complaint, specifically to the Seventh and Eighth Causes of Action of the Fifth Amended Complaint, the only causes of action that complaint directed at or asserted against County, was sustained without leave to amend by me on March 4, 1988.

2. Previously, this Court, Judge Robert L. Roberson, Jr., on October 24, 1986, sustained without leave to amend, County's noticed general demurrer to the Seventh Cause of Action of the Second Amended Complaint.

3. The latest complaint in this case is the Fifth Amended Complaint. There are no causes of action in the Fifth Amended Complaint, other than the Seventh and Eighth Causes of Action, which are directed at or asserted against the County.

4. Code of Civil Procedure, § 597. is not applicable to the sustaining of these general demurrers without leave to amend on October 24, 1986, and March 4, 1988. (See Code Civ. Proc., § 581(f)(1), 597.)

Good cause appearing therefore, County's motion for dismissal is granted and this action is hereby dismissed as to defendant, County of Los Angeles, only.

Dated: 3/31/88 (signature of Judge)
Howard J. Schwab, Judge,
Los Angeles Superior Court

DECLARATION OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

AMPARO S. MARILAO states I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to the within action; that my business address is 648 Hall of Administration, City of Los Angeles, County of Los Angeles, State of California.

That on the 26th day of April, 1988, I served the attached NOTICE OF DISMISSAL upon all interested parties by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box in Los Angeles, California, Addressed as follows:

JAMES M. FIZZOLIO
Fizzolio, Fizzolio and McLeod
Los Angeles Federal Savings Bldg.
15260 Ventura Blvd., Suite 540
Sherman Oaks, CA 91403-5307

Attorney for Plaintiff,
LOUISE GOODRICH

I. DONALD WEISSMAN
Staitman & snyder
15760 Ventura Blvd., #1901
Encino, CA 91436-3062

Attorneys for Defendant
BRATTON ENTERPRISES, INC.

PAUL J. COONY, ESQ.
Law Offices of Paul J. Cooney
18411 South Crenshaw Blvd Suite 220
Torrance CA 90504

Attorney for Defendant and Cross-Defendant
CARLOS PADILLA

JOHN SCHROEDER, ESQ.,
Robert Parker Mills
911 East Colorado Blvd. Third Floor
Pasadena, CA 91106

Attorney for cross-Defendant
and Cross-Complainant
TED RUDOLPH

ROBERT L. RINEHART, ESQ.
Law Offices of Robert L. Rinehart
1809 Lampton Lane
Norco, CA 91760

Attorneys for Defendant
HALART ESCROW CO.

W. DENNIS SNYDERMAN
Law Offices of Max Fink
9777 Wilshire Blvd. Suite 700
Beverly Hills, CA 90212

Attorney for Defendant and
Cross-Defendant,
REDMAN HOMES, INC.

and that the person on whom said service was made has his office at a place where there is a delivery service by United States mail, and that there is a regular commuication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of April, 1988, at Los Angeles, California.

_____(signature)_____
Amparo S. Marilao

APPENDIX D

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT. 83

DATE: October 24, 1986

HONORABLE Robert L. Roberson JUDGE

C 566 070

Louise W. Goodrich
vs
Redman Homes Inc.,
etc et al

NATURE OF PROCEEDINGS

DISPOSITION OF DEMURRER MOTIONS

X Notice: X: By respective moving parties

MINUTES ENTERED
October 24, 1986
COUNTY CLERK

12 DEPT 83

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES DEPT. 83

DATE: October 24, 1986

HONORABLE Robert L. Roberson JUDGE
HONORABLE JUDGE PRO TEM
12 Deputy Sheriff

P. Hurd DEPUTY CLERK _____

G. Donester Reporter

(Parties and counsel checked if present)

C 566 070

Louise W. Goodrich
vs
Redman Homes Inc.,
etc et al

Counsel for Plaintiff
J. FIZZOLIO x

Counsel for Defendant
STAITMAN &
B. SNYDER x

P. HANSON x

M. McCLURE x

NATURE OF PROCEEDINGS

A. Demurrer of defendant Bratton Enterprises Inc to second amended complaint
o
Motion ot above defendant to strike certain portions of plaintiff's second amended complaint
í

(First cont.)

A. Demurrer 1,4th cause of action-Overruled 5th cause of action -Overruled.Not supported by Points and Authorities-see LDPM 105(a). 2.8th cause of action is sustained,45

	days to amend. B. Motion is denied. (alleges act of deliberate concealment and forgery sufficient for a motion to strike).
Demurrer of defendant County of Los Angeles to plaintiff, Goodrich's second amended complaint	C. 7th cause of action-Sustained without leave to amend. 8th cause of action-Sustained, 45 days to amend. (Not factually supported)

[form boxes here, unchecked]

X Notice: X: By respective moving parties

MINUTES ENTERED
October 24, 1986
COUNTY CLERK

12 DEPT 83

B-225
76M213E(Rev. 6-84)6-84

APPENDIX E

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

LOUISE W. GOODRICH Plaintiff, v. REDMAN HOMES, INC. et al., Defendants.	CASE NO. C 566 070 NOTICE OF RULING ON DEMURRER

[Dated 10-29-86]

DE WITT W. CLINTON, County Counsel
PAUL T. HANSON, Principal Deputy County Counsel
500 West Temple Street
652 Hall of Administration
Los Angeles, California 90012
(213) 974-1841

Attorneys for Defendant
COUNTY OF LOS ANGELES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LOUISE W. GOODRICH Plaintiff, v. REDMAN HOMES, INC. et al., Defendants.	CASE NO. C 566 070 NOTICE OF RULING ON DEMURRER

To all parties and their attorneys of record:

On October 24, 1986, at 9:a.m., counsel of record for Plaintiff, County, Bratton, and Conrad's Mobile Home appearing, Judge Robert L. Roberson, ruled as follows on the previously noticed demurrer of County of Los Angeles to the

Seventh and Eighth Causes of Action of the Second Amended Complaint, served by mail on July 16, 1986, the Seventh and Eighth Causes of Action being the only ones therein directed at County of Los Angeles:

As to the Seventh Cause of Action, County's general demurrer was sustained without leave to amend for failure of this cause of action of the Second Amended Complaint to state facts constituting a cause of action against County, for the reasons stated in County's points and authorities served and filed as part of the demurrer on September 16, 1986, from page 2, line 15, to page 10, line 13.

As to the Eighth Cause of Action, County's general demurrer was sustained for failure to state facts constituting a cause of action against County, with leave to amend within 45 days from the hearing date, October 24, 1986, for failure to plead factually and for improper conclusionary

pleading and for the reasons stated in County's Points and Authorities with the demurrer filed and served on September 16, 1986, at page 8, lines 12 to 18, and page 10, line 14, to page 12, line 22.

Date: 10-29-86

DE WITT W. CLINTON
County Counsel

By (Signature)
PAUL T. HANSON
Principal Deputy County Counsel

Attorneys of Record for Defendant
COUNTY OF LOS ANGELES

1/NOT-24
10-28-86

DECLARATION OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

GWEN C. BLAND states I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party in the within action; that my business address is 648 Hall of Administration, City of Los Angeles, County of Los Angeles, State of California.

That on the 30th day of October, 1986, I served the attached NOTICE OF RULING ON DEMURRER upon all interested parties by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box in Los Angeles, California, addressed as follows:

JAMES M. FIZZOLIO
Fizzolio, Fizzolio and McLeod
Los Angeles Federal Savings Bldg.
15260 Ventura Blvd., Suite 540
Sherman Oaks, CA 91403-5307

Attorney for Plaintiff,
LOUISE GOODRICH

I. DONALD WEISSMAN
Staitman & Snyder
15760 Ventura Blvd., #1901
Encino, CA 91436-3062

Attorneys for Defendant
BRATTON ENTERPRISES, INC.

ROBERT L. RINEHART, ESQ.
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Corona, CA 91718-1735

PAUL J. COONY, ESQ.
Law Offices of Paul J. Cooney
18411 South Crenshaw Blvd Suite 220
Torrance CA 90504

Attorney for Defendant and Cross-Defendant
CARLOS PADILLA

JOHN SCHROEDER, ESQ.,
Robert Parker Mills
911 East Colorado Blvd. Third Floor
Pasadena, CA 91106

Attorney for cross-Defendant and Cross-Complainant
TED RUDOLPH

W. DENNIS SNYDERMAN
Law Offices of Max Fink
9777 Wilshire Blvd. Suite 700
Beverly Hills, CA 90212

Attorney for Defendant and Cross-Defendant,
REDMAN HOMES, INC.

and that the person on whom said service

was made has his office at a place where there is a delivery service by United States mail, and that there is a regular commuication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of October 1986, at Los Angeles, California.

GWEM C. BLAND

1/NOT-26
10-28-81

89-1328

(3)

Supreme Court, U.S.
FILED
FEB 20 1990
JOSEPH F. SPANIOL, JR.
CLERK

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

LOUISE W. GOODRICH,

Petitioner,

v,

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION SEVEN

APPENDIX, CONSTITUTIONS & LAWS INVOLVED
(Volume Three, of three volumes)

Louise W. Goodrich
16187 East Deeplake Avenue
Palmdale, California 93550
(805) 264-4702

Louise W. Goodrich,
in propria persona

76 pp

APPENDIX F

CONSTITUTIONAL PROVISIONS

APPENDIX F

UNITED STATES CONSTITUTIONAL PROVISIONS:

ARTICLE I,

SECTION VIII, The Congress shall have power

> 3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

SECTION X,

> 1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and repraisal; coin money; emit bills of credit; make any-thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

ARTICLE VI,

> 2. This Constitution, and the laws of the United states which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding

AMENDMENTS TO THE CONSTITUTION

ARTICLE V,

No person shall be held to answer for a

capital, or otherwise infamous crime, unless upon a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive a person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

APPENDIX G

CALIFORNIA CONSTITUTIONAL PROVISIONS

APPENDIX G

CONSTITUTION OF THE STATE OF CALIFORNIA
As amended and in force November 4, 1986

ARTICLE I

DECLARATION OF RIGHTS

[Inalienable Rights]
§ 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

APPENDIX H

CONGRESSIONAL ACTS - FEDERAL REGULATIONS

APPENDIX H

CONGRESSIONAL ACTS AND FEDERAL REGULATIONS

42 U.S.C. § 1983 Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper procedure for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 1985 Conspiracy to interfere with civil rights

(3) Depriving persons of rights or privileges

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges or immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or

Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his suport or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the objective of such conspiracy, whereby another is injured in his person or property, or deprived of having or exercizing any right or privilege of a citizen of the United States the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

THE NATIONAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974, 42 U.S.C. SECTION 5401. et seq.

§ 5401 Congressional declaration of purpose

The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for manufactured homes and to authorize manufactured home safety research and development.

§ 5402. Definitions

As used in this chapter, the term--

(1) "manufactured home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety;

(3) "defect" includes any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(6) "manufactured home" means a structure transportable on one or more sections, which, when in the travelling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundres twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter;

(7) "Federal manufactured home construc-
construction and safety standard" means a resonable standard for the

construction, design, and performance of a manufactured home which mets the needs of the public including the need for quality, durability, and safety.

(8) "manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent aand unreasonable risk of death or severe personal injury;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonweath of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

§ 5403. Construction and safety Standards

(a) The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal manufactured home construction and safety standards. Each such Federal manufactured home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to manufactured home safety and construction.

(d) Supremacy of the Federal standards.

Whenever a Federal manufactured home construction and safety standards is in effect, no State or political subdivision of a State shall have any authority either to establish or continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard. [Footnote; Code of Federal Regulations Standards applicable, see 24 CFR 3280.1 et seq., 3282.1 et seq.]

§ 5408. Cooperation by Secretary with public and private agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of--

(1) manufactured home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with manufactured home standards.

§ 5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties

(e) Submission by manufacturer of building plans for manufactured homes; certification by manufacturer of conformity of building plans to standards

Each manufacturer of manufactured homes

shall submit the building plans for every model of such manufactured homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at the time before the model involved is produced.

§ 5421. Prohibition on waiver of rights

The rights afforded manufactured home purchasers under this chapter may not be waived, and any provision of a contract or agreement entered into after August 22, 1974, to the contrary shall be void.

§ 5422 State enforcement

(a) Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established pursuant to the provisions of section 5403 of this title.

(b) Any State which, at any time, desires to assume responsibility for enforcement of manufactured home safety and construction standards relating to any issue with respect to which a Federal standard has been established under § 5403 of this title, shall submit to the Secretary a State plan for enforcement of such standards.

(c) The Secretary shall approve the plan submitted by a State under subsection (b) of this section, or any modification thereof, if such plan in his

judgement--

(1) designates a State agency as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the enforcement of manufactured home safety and construction standards promulgated under § 5403 of this title;

(5) provides for the notification and correction procedures under § 5414 of this title;

(6) provides for the paymeny of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;

(7) contains satisfactory assurances that such State agency or agencies. have or will have the legal authority and qualified personnel necessary for the enforcement of such standards.

§ 5423. Grants to States

(a) The secretary is authorized to make grants to the States which have designated a State agency under § 5422 of this title to assist them--

(1) in identifying their needs and responsibilities in the area of manufactured home construction and safety standards; or

(2) in developing State plans under section 5422 of this title.

CODE OF FEDERAL REGULATIONS, TITLE 24--
HOUSING & URBAN DEVELOPMENT, CH. XX--
OFFICE OF ASSISTANT SECRETARY FOR HOUSING

PART 3280.

§ 3280.1 Scope.

(a) This standard covers all equipment and installations in the design, construction, fire safety, plumbing, heat-producing and electrical systems of manufactured homes which are designed to be used as dwelling units. . . .

(b) These Federal manufactured home construction and safety standards seek, to the maximun extent possible, to establish performance requirements. ...

(c) Interpretative bulletins may also be issued for the following purposes:

(1) To clarify the meaning of the standard; and

(2) To assist in the enforcement of the standard.

§ 3280.2 Definitions. (see § 3282.7 and Act § 5402.)

(a) Definitions in this subpart are those common to all subparts of the standard and are in addition to the individual definitions provided in individual parts.

(11) "Installations" means all arrangements and methods of construction, as well as fire safety, plumbing, heat-producing and electrical systems used in manufactured homes.

§ 3280.3 Acceptance of plans.

(a) Each manufacturer of manufactured homes shall submit the building plans for every model of such manufactured home to the secretary, or Secretary's designee, for the purpose of inspection for conformance to this standard.

(b) The manufacturer shall certify that each such building plan meets the Federal construction and safety standard in force at the time before the maufactured home involved is producd.

(c) Regulations pertaining to enforcement of these standards and to labeling of manufactured homes shall be as prescribed by the secretary.

Subpart B--Planning Considerations

§ 3280.101 Scope.

Subpart B states the planning requirements in manufactured homes. The intent of this subpart is to assure the adequacy of architectural planning considerations which assist in determining a safe and healthful environment.

Subpart C--Fire Safety

§ 3280.201 Scope.

The purpose of this subpart is to set forth requirements that will assure reasonable fire safety to the occupants by reducing fire hazards and by providing measures for early detection.

Subpart D--Body and Frame Construction Requirements

§ 3280.301 Scope

This subpart covers the minimum requirements for materials, products, equipment and workmanship needed to assure that the manufactured home will provide: (a) Structural strength and rigidity, (b) protection against corrosion, decay, insects and other similar destructive forces, (c) protection against hazards of windstorm, (d) resistance to the elements, and (e) durability and economy of maintenance.

§ 3280.302 Definitions.

(a) The following definitions are applicable to Subpart D only:

(3) "Tie" means strap, cable, or securing devices used to connect the manufactured home to ground anchors.

(5) "Vertical tie" means a tie intended to resist the uplifting or overturning forces.

(6) "Footing" means that portion of the support system that transmits loads directly to the soil.

(10) "Main frame" means the structural component on which is mounted the body of the manufactured home.

(11) "pier" means that portion of the support system between the footing and the mufactured home exclusive of caps and shims.

(14) "Support system" means a combination of footings, piers, caps, and shims that will, when properly installed, support the manufactured home.

§ 3280.303 General requirements.

(a) Minimum requirements. The design and construction of a manufactured home shall conform with the provisions of this standard. Requirements for any size, weight, or quality of material modified by the terms of "minimum", "not less than", "at least" and similar expressions are minimum standards. The manufacturer or installer may exceed these standards provided such deviation does not result in any inferior installation or defeat the purpose and intent of this standard.

(b) Construction. All construction methods shall be in conformance with accepted engineering practices to insure durable, livable, and safe housing and shall demonstrate acceptable workmanship reflecting journeyman quality of work of the various trades.

(e)(2) Unless based on accepted engineering design for the use indicated, all new materials, equipment, systems or methods of constructuion not provided for in this standard shall be subjected to the tests specified in paragraph (g) of this section.

§ 3280.304 materials.

(b)(2) Materials and methods of constr-construction utilized in the design and construction of manufactured homes which are covered by the standards in the following table, or any applicable portion thereof shall comply with these requirements.

(b)(4) Materials and methods of installation conforming to these standards

shall be considered acceptable when installed in conformance with the requirements of this part.

§ 3280.305 Structural design requirements.

(a) Each manufactured home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of this standard and shall be capable of transmitting these loads to stabilizing devices without exceeding the allowable loads stresses or deflections..

(b) Design loads--(1) Design dead loads shall be the actual dead load supported by the structural assembly under consideration.

(i) Frame construction. The frame construction shall be capable of transmitting all design loads to stabilizing devices without exceeding the allowable load and deflections of this section. The frame shall also be capable of withstanding the effects of transportation shock and vibration without degradation as required by Subpart J.

§ 3280.306 Windstorm protection.

(a) Provision for support and anchoring systems. Each manufactured home shall have provisions for support and anchoring systems, which, when properly designed and installed, will resist overturning and lateral movement (sliding) of the manufactured home as imposed by the respective design loads.

(1) The provisions of this section shall be followed and the support and

anchoring systems shall be designed by a Registered Professional Engineer or Architect.

(2) The manufacturer of each manufactured home is required to make provision for the support and anchoring systems, but is not required to provide the anchoring equipment or stabilizing devices. When the manufacturer's installation instructions provide for the main frame structure to be used as the points for connection of diagonal ties, no specific connecting devices need be provided on the main frame structure.

(b) The manufacturer shall provide printed instructions with each manufactured home specifying the location and required capacity of stabilizing devices on which the design is based. The manufacturer shall provide drawings and specifications certified by a registered professional engineer or architect indicating at least one acceptable system of anchorage including the details of required straps or cables, their end connections and all other devices needed to transfer the wind loads from the manufactured home to the ground anchors.

§ 3280.402 Test procedure for roof trusses.

(b) General. Trusses may be tested in pairs or singly in a suitable test facility. When tested singly, simulated lateral support of the test assembly may be provided, but in no case shall this lateral support exceed that which is specified for the completed manufactured home. When tested in pairs, the trusses shall be spaced at

the design spacing and shall be mounted on solid support accurately positioned to give the required clear span distance (L) as specified in the design. The top and bottom chords shall be braced and covered with the material, with connections or method of attachment, as specified by the completed manufactured home.

§ 3280.603(b)(4) Freezing. All piping and fixtures subject to freezing temperatures shall be insulated or proteted to prevent freezing, under normal occupancy. The manufacturer shall provide: (i) Written installation instructions for the method(s) required for compliance to this section; (ii) a statement in his installation instructions that if heat tape is used it shall be listed for use with manufactured homes; (iii) a receptacle outlet for the use of heat tape located on the underside of the manufactured home within 2 feet of the water supply inlet. The rceptacle outlet provided shall not be placed on a branch circuit which is protected by a ground fault circuit interrupter.

§ 3280.609(b)(1) . . . When a master cold water shutoff full flow valve is not installed on the main feeder line in an accessible location, the manufacturer's installation instructions shall indicate that such a valve is to be installed in the water supply line adjacent to the home. . . .

§ 3280.610(c)(5) Preassembly of drain lines. Drain lines provided by the manufacturer, located under the manufactured home, designed to bring the drain system to one distribution point

which may be damaged in transit, must be designed for proper site assembly.

§ 3280.612 Test and inspection.

(a) **Water system.** All water piping in the water distribution system shall be subjected to a pressure test. The test shall be made by subjecting the system to air or water at 100 psi for 15 minutes without loss of pressure.

(b) **Drainage and vent system and plumbing fixtures.** The waste and vent system shall be tested by one of the three following alternate methods for evidence or indication of leakage.

(3) **Flood level test.** The manufactured home shall be in a level position, all fixtures shall be connected, and the entire system shalll be filled with water to the rim of the toilet bowl. (Tub and shower drains shall be plugged.) After all trapped air has been released, the test shall be sustained for not less than 15 minutes without evidence of leaks. Then the system shall be unplugged and emptied. The waste piping above the level of the toilet bowl shall then be tested and show no indication of leakage when the high fixtures are filled with water and emptied simultaneously to obtain the maximum possible flow in the drain piping.

§ 3280.705 **Gas piping systems;**
§ 3280.706 **Oil piping systems;**

[NOTE: Extensive regulations and tests are contained in these sections, but Petitioner's home is all electric.]

§ 3280.709(g)(1)(ii) A fireplace or fireplace stove, air intake assembly, hearth extension and the chimney shall be installed in accordance with the terms of their listings and their manufacturer's instructions. (iii) The combustion air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping onto the area beneath the manufactured home.

§ 3280.715 Circulating air system.

(a)(5) Expandable or multiple manufactured home connections. (i) An expandable or multiple manufactured home may have ducts of the heating system installed in the various units. The points of connection must be so designed and constructed that when the manufactured home is fuly expanded or coupled, the resulting duct joint will conform to the requirements of this part. (ii) Installation instructions for supporting the crossover duct shall be provided for onsite installation. The duct shall not be in contact with the ground. (emphasis added)

§ 3280.810 Electrical testing.

(b) Each manufactured home shall be subjected to: (1) A continuity test to assure that metalic parts are properly bonded; (2) operational test to demonstrate that all equipment is connected and in working order; and (3) polarity checks to determine that connections have been properly made.

Part 3282.

§ 3282.1 Scope of purpose

(a) The National Manufactured Housing Construction and Safety Standards Act of 1974 (Title VI of Pub. L. 93-383, 88 Stat. 700, 42 U.S.C. 5401, et seq.) (hereafter referred to as the Act), requires the Secretary of the Department of Housing and Urban Development to establish Federal manufactured home construction and safety standards and to issue regulations to carry out the purpose of the Act. The standards promulgated pursuant to the Act appear at Part 3280 of Chapter XX of this Title and apply to all manufactured homes manufactured for sale to purchasers in the United States on and after the effective date of the standards (June 15, 1976). A manufactured home is manufactured on and after June 15, 1976, if it enters the first stage of production on or after that date.

(b) The Secretary is also authorized to conduct inspections and investigations necessary to enforce the standards, to determine that a manufactured home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the defect or imminent safety hazard. The purpose of this part is to prescribe procedures for the implementation of these responsibilities of the Secretary under the Act through the use of private and State inspection organizations and co-operation with State manufactured home agencies. It is the policy of the Department to

involve State agencies in the enforcement of the Federal standards to the maximum extent possible consistent with the capabilities of such agencies and the public interest.

§ 3282.7 Definitions.

(l) "Design" means drawings, specifications, sketches and the related engineering calculations, tests and data in support of the configurations, structures and systems to be incorporated in manufactured homes manufactured in a plant.

(o) "Failure to conform" means an imminent safety hazard related to the standards, a serious defect, defect, or noncompliance and is used as a substitute for all of those terms.

(q) "Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable safety or construction standard.

(gg) "Serious defect" means any failure to comply with applicable [standard] that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home.

(j) "Defect" means a failure to comply with an applicable [standard] that renders the manufactured home or any part or component thereof not fit for the ordinary use for which it was

intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home.

(y) "Noncompliance" means a failure of a manufactured home to comply with a [standard] that does not constitute a defect, serious defect, or imminent safety hazard.

(jj) "State Administrative Agency" (SAA) means an agency of a State which has been approved or conditionally approved to carry out the State plan for enforcement of the standards pursuant to section 623 of the Act, 42 U.S.C. 5422, and Subpart G of this part.

§ 3282.8. Applicability.

(b) States. This part applies to States that desire to assume responsibility under the Federal manufactured home construction and safety standards enforcement program. It includes requirements which must be met in order for State agencies to be approved by the Secretary under § 623(c) of the Act, 42 U.S.C. 54229c). It also includes requirements for states wishing to act as primary inspection agencies, as defined in §3282.7, or to participate in monitoring activities under §3282.308.

(e) manufactured home dealers and distributors. This part applies to any person selling, leasing, or distributing new manufactured homes for use in the United States. It includes prohibitions of the sale of new manufactured homes to which labels have not been affixed pursuant to Subpart H of these regulations or that have been altered,

damaged, or otherwise caused not to be in compliance with the Federal standards.

(f) Purchasers. owners, and consumers. This part applies to purchasers, owners, and consumers of manufactured homes in that it sets out procedures to be followed when purchasers, owners, and consumers complain to manufacturers, States, the Secretary, or others concerning problems in manufactured homes for which remedies are provided under the Act.

§ 3282.11 Preemption and reciprocity.

(a) No State manufactured home standard which covers aspects of the manufactured home governed by the Federal standards shall be established or continue in effect with respect to manufactured homes subject to the Federal standards and these regulations unless it is identical to the Federal standards.

(b) . . . Certain actions which States are permitted to take are set out in Section 3282.203 of Subpart G of this part;

(e) No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the federal superintendence of the manufactured home industry as established by the Act.

SUBPART E--Manufacturer Inspection and Certification Requirements

§3282.201 Scope and Purpose

(b) The purpose of this subpart is to require manufacturers to participate in a system of design approvals and inspections which serve to assist them in assuring that manufactured homes which they manufacture will conform to the standards. Such approvals and inspections provide significant protection to the public by decreasing the number of manufactured homes with possible defects in them, and provide protection to manufacturers by reducing the number of instances in which costly remedial actions must be undertaken after manufactured homes are sold.

§ 3282.203 Dapia services

(b) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out the design approvals. This information shall, except where the manufacturer demonstrates to the DAPIA that it is not necessary, include the following:

(10) Detailed manufacturer installation instructions including specifications and procedures for the erection and hook-up of the home at its permanent location, and

(11) Reports of all tests that were run to validate the conformance of the design to the standards.

SUBPART F--Dealer and Distributor Responsibilities

§ 3282.251 Scope and Purpose

(a) This subpart sets out the responsibilities which shall be met by distributorsw and dealers with respect to manufactured homes manufactured after the effective date of the standards for sale to purchasers in the United States. It prohibits the sale or lease of manufactured homes known by the distributor or dealer not to be in conformance with the standards, and it includes responsibilities for maintaining certain records and assisting in the gathering of certain information.

(b) The purpose of this subpart is to inform distributors and dealers when they may sell manufactured homes, when they are prohibited from selling manufactured homes, and what they may do in order to prepare a manufactured home for sale if it is not in conformance with the standards.

§ 3282.254 Distributor and Dealer alterations.

(a) If a dealer or distributor alters a manufactured home in such a way as to create an imminent safety hazard or to create a condition which causes a failure to conform with applicable Federal standards, the manufactured home affected may not be sold, leased, or offered for sale or lease.

SUBPART G--State Administrative Agencies

§ 3282.301 General--scope.

This subpart sets out procedures to be

followed and requirements to be met by States which wish to participate as State Administrative Agencies (SAA) under the Federal standards enforcement program. Requirements relating to States which wish to participate as primary inspection agencies under the Federal standards enforcement program are set out in Subpart H of this part. Requirements which States must meet in order to receive full or conditional approval as SAAs and the reponsibilities of such agencies are set out in § 3282.302. Reporting requirements for approved and conditionally approved SAAs are set out in Subpart L.

§ 3282.302 State plan.

A State wishing to qualify and act as a SAA under this subpart shall make a State State Plan Application under this section. The State Plan Application shall be made to the Director, Manufactured Housing Standards Division, Department of Housding and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, and shall include:

(a) An original and one copy of a cover sheet which shall show the following:

(1) The name and address of the State agency designated as the sole agency responsible for administering the plan throughout the State,

(2) The name of the administrator in charge of the agency,

(3) The name, title, address, and phone number of the person responsible for handling consumer complaints concerning standards related problems in manufactured homes

under Subpart I of this part,

(4) A list of personnel who will carry out the State plan,

(5) The number of manufactured home manufacturing plants presently operating in the State,

(6) The estimated total number of manufactured homes manufactured in the State per year,

(7) The estimated total number of manufactured homes set up in the State per year,

(8) A certification signed by the administrator in charge that, if it is approved by the Secretary, the State Plan will be carried out in full, and that the regulations issued under the Act shall be followed (emphasis added)

(b) An original and one copy of appropriate materials which:

(1) Demonstrate how the State agency shall assure effective handling of consumer complaints and other information referred to it that relate to noncompliances, defects, serious defects, and imminent safety hazards as set out in Subpart I of this part, including the holding of hearings and presentation of views and the fulfilling all other responsibilities of SAAs as set out in that Subpart G:

(2) Provide that personnel of the designated agency shall, under State law or as agents of HUD, have the

right at any reasonable time to enter and inspect all factories, warehouses, or establishments in the State which manufactured homes are manufactured;

(3) Provide for the imposition under State authority of civil and criminal penalties which are identical to those set out in Section 611 of the Act, 42 U.S.C. 5410 except that civil penalties shall be payable to the State rather than to the United States;

(4) Provide for the notification and correction procedures under Subpart I of this part where the State Administrative Agency is to act under that subpart by providing for and requiring approval by the State Administrative Agency of the plan for notification and correction described in section 3282.410, including approval of the number of units that may be affected and the proposed repairs, and by providing for approval of corrective actions where appropriate under Subpart I,

(5) Provide for oversight by the SAA of: (i) Remedial actions carried out by manufacturers for which the SAA approved the plan for notification or correction under section 3282.405, or 3282.407, or for which the SAA has waived formal notification under section 3282.405 or section 3282.407, and (ii) a manufacturer's handling of consumer complaints and other information under 3282.404 as to plants located within the State,

(6) Provide for the setting of monitoring inspection fees in accordance with guidelines established by the Secretary and provide for participation in the fee distribution system set out in section 3282.307,

(7) Contain satisfactory assurances in whatever form is appropriate under State law that the designated agency has or will have the legal authority necessary to carry out the State plan as submitted for full or conditional approval, (emphasis added)

(8) Contain satisfactory assurances that the designated agency has or will have in its own staff or provided by other agencies of the State or otherwise, the personnel, qualified by education or experience necessary to carry out the State plan, (emphasis added)

(9) Include the resumes of administrative personnel in policy making positions and of all inspectors and engineers to be utilized by the designated agency in carrying out the State plan,

(10) Include a certification that none of the personnel who may be involved with carrying out the State plan in any way are subject to any conflict of interest of the type discussed in § 3282.359 or otherwise, except that member of councils, committees, or similar bodies providing advice to the designated agency are not subject to the requirements,

(11) Include an estimate of the cost to the State of carrying out all activities called for in the State plan under this section and section 3282.203, which shall be broken down by particular function and indicate the correlation between the estimate and the number of manufactured homes manufactured in the State and the number of manufactured homes imported into the State, and the relationship of these factors to any fees charged during the preceding two calendar years. A description of all current and past State activities with respect to manufactured homes shall be included with this estimate, (emphasis added)

(12) Give satisfactory assurances that the State shall devote adequate funds to carry out its State plan.

(13) Indicate that the State law requires manufacturers, distributors, and dealers in the State to make reports pursuant to § 614 of the Act 42 U.S.C. 5413 and this chapter of these regulations in the same manner and to the same extent as if the State plan were not in efect.

(14) Provide that the designated agency shall make reports to the Secretary as required by Subpart L of this part in such form and containing such information as the Secretary shall from time to time require

§ 3282.303 State plan--suggested provisions.

The following are not required to be

included in the State plan but they are urged as necessary to provide full consumer protection and assurances of manufactured home safety:

(b) Provision of approvals of all alterations made to certified manufactured homes by dealer in the State. Under this program, the State would assure that alterations did not result in the failure of the manufactured home to comply with the Standards.

(c) Provision for monitoring of the installation of manufactured homes set up in the State to assure that the homes are properly installed and, where necessary, tied down, [see section 3282.302(b)(11) above, and § 3280.306(a)-(b).]

§ 3282.305 State plan approval.

The Secretary's approval or conditional approval of a State plan Application shall qualify that State to perform the functions for which it has been approved.

§ 3282.351 General.

(a) This subpart sets out the requirements which must be met by States or private organizations which wish to qualify as primary inspection agencies under these regulations. It also sets out the various functions which will be carried out by primary inspection agencies.

SUBPART I--Consumer Complaint Handling and Remedial Actions

§ 3282.401 Purpose and Scope--

(a) The purpose of this subpart is to establish a system under which the protections of the Act are provided with a minimum of formality and delay, but in which the rights of all parties are protected. (emphasis added)

(b) This subpart sets out procedures to be followed by manufacturers, State Administrative Agencies, primary inspection agencies and the Secretary to assure that manufacturers provide notification and correction with respect to their manufactured homes as required by the Act. Notification and correction may be required to be provided with respect to manufactured homes that have been sold or otherwise released by the manufacturer to another party when the manufacturer, an SAA or the Secretary determines that an imminent safety hazard, serious defect, defect, or noncompliance may exist in those manufactured homes as set out herein.

§ 3282.402 General principles.

(a) Nothing in this subpart or in these regulations shall limit the rights of the purchaser under any contract or applicable law.

(e) It is the policy of these regulations that all consumer complaints or other information indicating the possible existence of an imminent safety hazard, serious defect, defect, or noncompliance should be referred to the manufacturer of the potentially affected manufactured homes as early as possible so that the manufacturer can begin to timely respond and take any remedial actions.

§ 3282.404 Notification pursuant to manufacturer's determination.

(b) Whenever the manufacturer receives from any source information that may indicate the existence of a problem in a manufactured home for which the manufacturer is responsible for providing notification under paragraph (a) of this section, the manufacturer shall, as soon as possible, but not later than 20 days after receipt of the information, carry out any necessary investigations and inspections to determine, and shall determine whether the manufacturer is responsible for providing notification under paragraph (a) of this section. . . .

§ 3282.406 Required manufacturer correction

A manufacturer required to furnish notification under 3282.404 or 3282,407 shall correct, at its expense, any imminent safety hazard or serious defect that can be related to an error in design or assembly of the manufactured home by the manufacturer, including an error in design or assembly of any component or system incorporated into the manufactured home by the manufacturer.

§ 3282.409 Manufacturer's plan for notification and correction.

(a) This section sets out the requirements that shall be met by manufacturers in preparing plans they are required to submit under 3282.404 (c). The underlying requirement is that the plan show how the manufacturer will fulfill its responsibilities with respect to notification and correction that arise under this Subpart I.

(c)(4) Inspection of the design of the manufactured home in question to determine whether the imminent safety hazard or failure to conform resulted from the design itself;

[§ 3282.364, All primary inspection agencies shall be responsible for acting as necessary under their contractual commitment with the manufacturer to determine whether alleged failures to conform to the standards may exist in manufactured homes produced under their surveillance and to determine the source of the problems. The DAPIA may be required to examine the designs in question . . .]

(e) The plan shall include a deadline for completion of all notifications and corrections.

§ 3282.410 Contents of notice.

(d) An evaluation of the risk to manufactured home occupants' safety and the durability of the manufactured home reasonably related to such imminent safety hazard, serious defect, defect or noncompliance, including:

(f)(1) Where the manufacturer will correct the manufactured home at no cost to the owner, the statement shall indicate how and when the correction will be done, how long the correction will take, and any other information that may be helpful to the owner.

APPENDIX I

CALIFORNIA ENACTMENTS

APPENDIX I

CALIFORNIA ENACTMENTS

CALIFORNIA ADMINISTRATIVE CODE

TITLE 25 MOBILEHOME PARKS ACT, CHAPTER 2, SUBCHAPTER 1, ART. I, ADMINISTRATION AND ENFORCMENT

§ 1000 Application and Scope.

The provisions of this subchapter shall apply to the construction, use, maintenance and occupancy of mobilehome parks, mobilehome lots, permanent buildings, and accessory buildings and structures. The provisions shall also apply to the use, maintenance and occupancy of mobilehomes and recreational vehicles and the installations for supplying fuel gas, water, electricity and the disposal of sewage from accessory structures and mobilehomes wherever located both within and outside of mobilehome parks in all parts of the state. (For purposes of this chapter, the term mobilehome shall include and be interchangeable with the term, manufactured home. See Section 18211, Health and Safety Code.)

NOTE: Authority cited: § 18300, Health and Safety Code. Reference §§ 18301, 18552, 18605, 18610, 18612, 18613, 18620, 18630, 18640, 18670, 18690 and 18691, Health and Safety Code.

§ 1002. Definitions

For purposes of administration and enfor-

cement the definintions contained in §§ 18200-18700 of the Health and Safety Code and those contained in this section shall apply to this subchapter. The definitions relating to building standards contained in Parts 2, 3, 4 and 5 of Title 24, California Administrative Code are also applicable to the requirements of this subchapter.

§ 1004. Local Enforcement.

(a) Assumption of responsibility for the enforcement of Division 13, Part 2.1 of the California Health and Safety Code and the provisions of this chapter relating to the enforcement of this chapter within mobilehome parks by a city, county, or city and county, shall be by means of an official ordinance, of the city council or board of supervisors which shall contain the following information:

(1) Indication of assumption of responsibility for enforcement of the Health and Safety Code, Division 13, Part 2.1 and the related administrative regulations.

(2) Name of agency or agencies delegated enforcement responsibilities.

(3) A statement that the designated local enforcement agency will provide qualified personnel necessary to enforce the provisions of this chapter consistent with the state enforcement program. The statement shall include total number of personnel assigned to enforcement program.

(4) Adoption of the applicable schedule of fees contained in the provisions of

the Health and Safety Code, Division 13, Part 2.1, and related administrative regulations.

(5) (i) A statement adopting the state program and objectives as contained in Health and Safety Code, Division 13, Part 2.1, and related administrative regulations.

(ii) A description of existing mobilehome parks in the jurisdiction, including conditions and occupancy status.

(iii) Specific local objectives, program plan and time table designed to achieve enforcement compliance.

(6) Effective date of enforcement assumption.

(b) Two certified copies of the ordinance shall be forwarded to the Administrative Office of the Division of Codes and Standards not less than 30 days before the designated effective date of assumption of enforcement.

(c) In addition to providing the above information, the local enforcement agency shall demonstrate actual inspection capability in making a mobilehome installation inspection to the satisfaction of the department.

(d) A statement that the forms used for application for permit to operate, the permit to operate, and the statement of installation acceptance shall be those provided by the state.

(e) The enforcement agency shall send a copy of all permits to operate issued to the Administrative Office of the

Division of Codes and Standards. The copies of the permits to operate issued shall be forwarded to the Administrative Office not later than the 15th of the month following issuance of the permit to operate.

NOTE: Authorities cited: §§ 18300 and 18613, Health and Safety Code. Reference: §§ 18300, 18505, 18506 and 18613, Health and Safety Code.

§ 1018. Permits Required.

(a) No person shall erect, construct, reconstruct, install, relocate or alter any building or structure or accessory building or structure, any electrical, mechanical, or plumbing equipment, fuel gas equipment and installations or fire protection equipment or installations of, or within, a mobilehome park, or a mobilehome lot, without first obtaining a written construction permit from the enforcement agency.

(b) No person shall operate a mobilehome park or portion of a mobilehome park without first obtaining a written permit to operate from the enforcement agency.

§ 1020. Permits for Mobilehome Installations and Accessory Buildings and Structures.

(a) All required site preparations and installations of serving utilities within a mobilehome park shall be completed before a permit to install a mobilehome may be issued within a mobilehome park. A person required to obtain a permit to install a mobilehome shall submit an application for

the permit to the enforcement agency on forms provided by the enforcement agency. Where the applicant is not the mobilehome owner, a contractor's license number and classification shall be shown on the application.

The applicant for a permit to install a mobilehome shall provide a complete set of plans and specifications and shall be on site available to the inspector at the time of inspection to include the following:

(1) A plot plan of the lot or site on which the mobilehome is to be installed, which shall indicate the planned location of the mobilehome, the locations of the electrical, gas, water and sewer connections on the site unless said plot plan is on file with the enforcement agency. The plot plan shall indicate all required dimensions and set backs from the lot lines.

(2) The number of the mobilehome insignia of approval and serial number of the mobilehome, or the year of manufacture and manufacturer's name and serial number if the mobilehome does not bear an insignia.

(3) The approved manufacturer's installation instructions for mobilehomes bearing the insignia of approval manufactured after October 7, 1973, including the designed roof and horizontal live loads.

(4) Upon completion of the mobilehome installation, the manufacturer's installation instructions and a copy of the approved plot plan shall be

placed within the mobilehome for retention by the mobilehome owner.

(b) Support Structure. When a support structure is required to be installed for a mobilehome, a separate permit to construct the support structure shall be obtained from the enforcement agency. A person submitting an application for a permit to construct a support structure shall submit three complete sets of plans and specifications of the structure. The enforcement agency may require engineering calculations and substantiating data prepared and signed by a registered engineer or architect to be submitted with the plans and specifications.

(c) Pursuant to the limitations set forth in Sections 18502.5(b) and 18613 of the Health and Safety Code, where the department is the enforcement agency, the following fees shall apply:

(1) Application filing fee, twenty dollars ($20).

(2) Installation permit fee, one hundred dollars ($100) provided the inspection is not more than one hour, plus thirty dollars ($30) for each thirty (30) minutes or fractional part in excess of one hour.

(3) Reinspection fee of sixty dollars ($60) provided the reinspection is not more than one hour, plus thirty ($30) for each 30 minutes or fractional part in excess of one hour.

(d) When the plans or specifications submitted with the application for permit do not comply with these regu-

lations, the enforcement agency shall notify the applicant in what respects the plan and specifications do not comply. When the applicant resubmits the application, plans and specifications, an additional application filing fee may be required.

(e) The permit issuance fee shall be twenty dollars ($20). A single permit may be issued for all mobilehome accessory buildings cr structures to be erected at the same time on the same mobilehome lot. A permit to construct shall be obtained for each permanent building, which may include electrical, mechanical and plumbing installations within the building. A single permit may be issued for the electrical, mechanical and plumbing installation within a mobilehome park, or a permit may be issued for each type of installation.

(f) Construction or alteration permit fees for mobilehome accessory buildings and structures that have a standard plan approval from the department are as follows:

§ 1022. Construction and Alteration Permit Fees.

(a) Any person submitting an application for a permit to construct shall pay the following fees as applicable. A permit issuance fee shall be paid for each permit issued. For the purpose of determining fees, the enforcement agency may establish the valuation for permanent buildings, miscellaneous structures, and mobilehome accessory buildings and structures that do not have the department's standard plan

approval.

(e) When plans and specifications fail to comply with the requirements of this subchapter, the enforcement agency shall notify the applicant for the permit in what respects the plans do not comply. The applicant shall correct the plans and specifications and resubmit to the enforcement agency for each resubmission of plans subsequent to the initial plan check:

(1) Plan resubmission fee. Ten dollars ($10).

(2) Plan checking fee. Sixty Dollars ($60) provided that such plan check is not in excess of one hour duration, plus thirty dollars ($30) for each thirty (30) minutes or fractional part thereof in excess of one hour.

NOTE: Authority cited: § 18300, Health and Safety Code. Reference: §§ 18502, 18502.5 and 18503, Health and Safety Code.

§ 1024. Building Permit Fees.

(a) Fees for a permit to construct or install buildings, mobilehome accessory buildings or structures or miscellaneous structures that do not have a standard plan approval from the department, and electrical, mechanical, and plumbing installations within or on buildings or structures shall be as follows:

(1) Table A. Construction Permit Fees.

(2) Table B. Mechanical and Plumbing

Permit Fees.

(b) When an inspection has been made, and the work is found not to be in compliance with the approved plans or requirements of this chapter, the permittee shall, upon written notice, make the required corrections and then request a reinspection. The request for reinspection shall be submitted with a fee of sixty dollars.

Fees for reinspection, office, or field technical services are sixty dollars ($60) for the first hour and thirty dollars ($30) for each additional thirty minutes.

NOTE: Authority cited: §§ 18300, 18502.5 and 18552, Health and Safety Code. Reference: §§ 18502 and 18503, Health and Safety Code.

§ 1046. Stop Order.

Whenever any construction work is in violation of this subchapter, the enforcement agency may order the work stopped by written notice served on any person engaged in the doing or causing such work to be done, and any such person shall immediately stop such work until authorized by the enforcment agency to proceed with the work.

§ 1320. Application and Scope.

The requirements of this article shall apply to the installation of mobilehomes and apply to all parts of the state for mobilehomes installed within and outside of mobilehome parks.

§ 1326. Inspection.

(a) A person obtaining a permit to install a mobilehome shall notify the enforcement agency and request inspection at least 24 hours in advance of the time installation is expected to be completed.

(b) When the mobilehome installation fails to comply with the requirements of § 18613, H & S Code, or these regulations, the enforcement agency shall notify the installer in what respects the installation does not comply. The installer shall perform the necessary corrective work and request reinspection within ten days. The fee for reinspection shall be paid when reinspection is requested.

NOTE: Authority cited: § 18300, H & S Code. Reference: § 18613, H & S Code.

§ 1332. Local Requirements.

Mobilehome locations are subject to the requirements of local zoning ordinances and conditional use permits established by local authorities.

§ 1333. Manufactured Home, Mobilehome, and Commercial Coach Foundation Systems.

(a) Pursuant to Health and Safety Code Section 18551, the requirements for manufactured home, mobilehome and commercial coach foundation systems are applicable throughout the state.

(b) The foundation system and the connection of the manufactured home, mobilehome, or comercial coach to the foundation system shall be designed to withstand the vertical and lateral

forces due to dead load, roof and floor live loads, wind and seismic loads in accordance with provisions of Chapter 29, Uniform Building Code, 1982 Edition, and local soil conditions. The roof live load, wind and seismic loads as established for permanent buildings within specific local areas shall apply.

(c) The vertical and lateral load resisting elements shall be sized and located to resist the loads specified in the manufacturer's installation instructions. The manufacturer's installation instructions shall become a part of the foundation system plans. In the absence of the manufacturer's installation instructions, plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome or commercial coach shall be provided to the enforcement agency.

(d) The foundation system and the connection of the manufactured home, mobilehome or commercial coach to the foundation system shall be capable of withstanding the vertical and lateral loads shown in the manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer, including the locations where there are concentrated loads.

(e) When a manufactured home, mobilehome or commercial coach is to be installed upon a foundation system, a foundation system plan shall be provided to the enforcement agency. The manufacturer may provide a foundation system plan

in its installation instructions, or a foundation system plan may accompany the installation instructions. Foundation systems may be approved by the enforcement agency or the department. Foundation systems approved by the department shall be accepted by every enforcement agency as approved for the purpose of obtaining a construction permit when the design loads and conditions are consistent for the locality.

Foundation system plans and supporting data may be required to be signed by a California licensed architect or professional engineer.

(f) The provisions of §§ 1334, 1336, 1338 and 1340 are not applicable to manufactured home, mobilehome, or commercial coach foundation systems.

Foundations for cabanas, porches, and stairways which are accessory to manufactured homes or mobilehomes on foundation systems shall be subject to approval of the enforcement agency. Porches and stairways which are accessory to commercial coaches on a foundation system shall be subject to approval of the local enforcement agency.

NOTE: Authority cited: § 18300, Health and Safety Code. Reference: § 18551, Health and Safety Code.

§ 1362. Test.

When a mobilehome consists of two or more units, all utility connections from one unit to another shall be visually inspected and included in the tests.

(a) The water distribution system of the mobilehome and the supply connection shall show no evidence of leakage under normal operating pressures. If water at normal operating pressure is not available, the mobilehome water distribution system shall be tested by a 50 pound per square inch air pressure test for a period of not less than 15 minutes without leaking.

The mobilehome drainage piping system shall be connected to the lot or site drain inlet, and tested by allowing water to flow into all fixtures, and receptors, including the clothes washer standpipe, for a period of three minutes. If water under pressure is not available. the drainage piping system shall be tested by letting at least three gallons of water into each fixture or receptor. There shall be no visible evidence of leaks.

(b) The mobilehome fuel gas piping system shall be tested before it is connected to the mobilehome lot gas outlet. The mobilehome gas piping system shall be subjected to a pressure test with all appliance shut-off valves, except those ahead of fuel gas cooking appliances, in the open position. Appliance shut-off valves ahead of fuel gas cooking appliances shall be closed. The test shall consist of air pressure at not less than 10 inches nor more than a MAXIMUM of 14 inches water column. (Six ounce to a MAXIMUM eight ounce psi). The system shall be isolated from the air pressure source and maintain this pressure for not less than two minutes without perceptible leakage.

Upon satisfactory completion of the test the appliance valves ahead of the cooking appliance connectors shall be opened and the gas cooking appliance connectors tested with soapy water or bubble solution while under the pressure remaining in the piping system. Solutions used for testing for leakage shall not contain corrosive chemicals. Pressure shall be measured with either a manometer, slope guage, or guage calibrated in either water inches or psi with increments or either one-tenth inch or one-tenth psi, as applicable. Upon satisfactory completion of the test, the mobilehome gas supply connector shall be installed, and the connection tested with soapy water or bubble solution.

Gas appliance vents shall be visually inspected to insure that they have not been dislodged in transit and are securely connected to the appliance.

NOTE: Do not overpressurize the fuel gas piping system. Pressurization beyond the maximum specified may result in damage to valves, regulators, appliances, etc.

(c) The electrical wiring and power supply feeder assembly of the mobilehome shall be tested for continuity and grounding. The electrical wiring system of the mobilehome shall not be energized during the test. A mobilehome equipped with a power supply cord shall not be connected to the lot or site service equipment. A mobilehome equipped with a feeder assembly shall have the flexible metal conduit of the feeder assembly connected to the lot or site service equipment; however,

the supply conductors, including the neutral conductor, shall not be connected.

The continuity test shall be made with all mobilehome interior branch circuit switches or circuit breakers and all switches controlling individual outlets, fixtures and appliances in the "on" position. The test shall be made by connecting one lead of the test instrument to the mobilehome grounding conductor at the point of supply to the feeder assembly, and applying the lead to each of the supply conductors, including the neutral conductor. There shall be no evidence of any connection between any of the supply conductors and the grounding conductor. In addition, all noncurrent-carrying metal parts of electrical equipment of the mobilehome, including fixtures and appliances, shall be tested to determine continuity between such equipment and the equipment grounding conductor.

Upon completion of the continuity test the power supply cord or feeder assembly shall be connected at the lot or site service equipment. A further continuity test shall then be made between the grounding electrode and the chassis of the mobilehome.

Upon satisfactory completion of the electrical tests, the lot or site service equipment shall be approved for energizing.

NOTE: Authority cited: H & S Code §§ 18300 & 18613. Reference: H & S Code § 18613

§ 1364 Approval Tags.

Except for test purposses, the electrical system of the mobilehome shall not be energized unless an approval tag, signed by a representative of the enforcement agency, is attached to the lot or site service equipment. The mobilehome fuel gas piping system shall not be supplied with gas unless an approval tag is attached to the lot or site gas riser.

If either system fails inspection, the inspector shall attach a tag indicating it is not approved, the system shall not be energized until re-inspected and approved.

Approval tags shall identify the mobilehome for which they are issued.

§ 1366 Mobilehome Installation Acceptance.

(a) When it is determined that a mobilehome complies with the provisions of these regulations after final inspection of the mobilehome installation, the enforcement agency shall provide a copy of the mobilehome installation acceptance for the mobilehome dealer and buyer.

GOVERNMENT CODE

§ 815.6 Mandatory duty of public entity to protect against particular kinds of injuries

Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a

particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercized resonable diligence to discharge the duty.

§ 818.4 Issuance, denial, suspension or revocation of permit, license, etc.

A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where the public entity or an employe of the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked.

§ 818.6 Failure to inspect, or negligent inspection of, property

A public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, other than its property (as defined in subdivision (c) of § 830), for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety.

HEALTH AND SAFETY CODE

State Housing Law Division 13, Chapter 2

§ 17290 [states that a local agency may

only approve a variation in building specifications after it had satisfied itself of comparable performance of the variation with the original performance obtained by the original specifications.]

§ 17958.3

Every city or county shall obtain and maintain with all revisions on a current basis the Building Standards and other State Regulations relating to buildings published in Titles 24 and 25 of the California Administrative Code. These Codes shall be maintained in the office of the building officials charged with the administration and enforcment of the provisions of this part.

THE MOBILEHOMES, MANUFACTURED HOUSING ACT OF 1980

§ 18000 Citation

This part shall be known and may be cited as the Mobilehomes, Manufactured Housing Act of 1980.

§ 18007 "Manufactured home"

"Manufactured home" includes a mobilehome subject to the National Manufactured Home Construction & Safety Act of 1974 (42 USC § 5401 et seq.)

§ 18010.5 "Regulations," "Rules and Regulations"

"Regulations" or "Rules and Regulations" as used in this part, means regulations promulgated by the commission or department, as appropriate, pursuant to Chapter 3.5 (commencing with § 11340) of Part 1 of Division 3 of Title 2 of the

Government Code.

§ 18015 Statewide applicability; Applicability of Part, Rules and Regulations;

The provisions of this part apply to all parts of the State and supercede any ordinance enacted by any city, county, or city and county, which can conflict with the provisions of this part.

§ 18020. Remedies not exclusive

The department shall enforce every provision of this part and the rules and regulations promulgated thereunder. However, the remedies provided in this part shall not preclude an aggrieved party from pursuing any other remedies he or she may have under any other provision of law.

§ 18025 Plumbing, heating and electrical equipment; Insignias of approval

(a) . . . . The department may promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles of plumbing, heat-producing, and electrical equipment and installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe plumbing, heat-producing, and electrical equipment and installations.

(b) All manufactured homes and mobilehomes manufactured on or after Jume 15, 1976, shall comply with the [Act].

§ 18025.5 Enforcement of federal standards; Inspections and investigations

(a) Pursuant to the [Act] the department is authorized to assume responsibility for enforcement of manufactured home and mobilehome construction and safety standards relating to any issue with respect to which a federal standard has been established. The department may adopt regulations to ensure acceptance by the Secretary of [HUD] of California's plan for administration and enforcement of federal manifactured home and mobilehome safety and construction standards.

(b) The department is authorized to conduct inspections and investigations which it determines may be necessary to secure enforcement of the provisions of this part and regulations adopted pursuant thereto. . . .

§ 18031.5 Installations of fireplaces

Nothing in this part or any other provision of law shall be construed to prohibit the installation of fireplaces in manufactured homes and mobilehomes. The department shall adopt any regulations for the installations of fireplaces in manufactured homes, mobilehomes, . . . which it may determine are reasonably necessary in order to protect the health and safety of the occupants and to insure that an installation does not impair the efficiency of the primary heating and cooling system of the manufactured home, mobilehome, . . . All manufactured homes, mobilehomes . . . manufactured on and after June 15, 1976, which contain fireplaces, shall comply with the [Act].

§ 18059.5 Acts with respect to escrows and sales practices

With respect to escrows and sales practices, it is unlawful to do any of the following:

(a) Violate any of the terms or provisions of Chapter 5 (commencing with § 18035), relating to purchase documents, receipts for deposits, escrow, and sales practices, or any rule, regulation, or order issued by the department pursuant thereto.

(b) Intentionally withhold or provide false information to an escrow company or to any person holding or acquiring an ownership or security interest in the manufactured home or mobilehome being sold or purchased.

§ 18075. Regulations; Schedule of fees

(a) On and after July 1, 1981, all manufactured homes, mobilehomes, . . . shall be subject to the provisions of this code for purposes of titling and registration.

(c) The department may establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter except where the fees are expressly stated herein.

§ 18075.5 Exceptions to Registration requirements

(b) Manufactured homes, mobilehomes . . . installed or to be installed on foundation systems pursuant to §18551 shall be exempt from registration so long as they remain affixed to the foundation

system. In the event that the manufactured home, mobilehome, . . . is removed from a foundation system for any purpose other than dismantling or reinstallation on a foundation system, it shall be immediately subject to registration with the department.

§ 18204. "Commission"

"Commission" is the Commission of Housing and Community Development.

[NOTE--§ 17003.5 . . . provides that any reference to the Commission of Housing and Community Development shall be deemed to be the Department of Housing and Community Development and the department may exercize all the powers and shall perform all the duties of the commission.]

§ 18206. "Department"

"Department" is the Department of Housing and Community Development.

§ 18207. "Enforcement agency"

"Enforcement agency" is the [HCD] or any city, county, or city and county which has assumed responsibility for the enforcement of this part pursuant to § 18300.

§ 18300 Statewide application of regulations; enforcement

(a) The provisions of this part apply to all parts of the state and supercede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in § 18930, the

department may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, . . . and the regulations pursuant to the provisions of this part following approval by the department for such assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption, shall relate solely to the ability of local agencies to enforce properly the building standards in the State Building Standards Code relating to mobilehome parks . . . and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different from those which the State maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the

jurisdiction of the city, county, or city and county.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, . . . and the other regulations adopted pursuant to the provisions of this part as they relate to manufactured homes . . .or structures located outside of mobilehome parks.

61 Ops Atty Gen 309 (a state or local standard regarding construction or safety applicable to the same aspect of performance as an existing federal standard under the [Act] is preempted by the federal standards with respect to a mobilehome as defined in federal law, including those designed to be used with and placed upon a permanent foundation).

§ 18503. Schedule of fees for construction and installation permits

(a) Except as othwerwise provided in subdivision (b), the department by administrative rule and regulation shall establish a schedule of fees relating to all construction and installation permits. The fees shall apply to and be paid to the enforcement agency. Fees established for construction and installation permits shall be reasonably consistent with the currrent edition of the Uniform Building Code as published by the International Conference of Building Officials, the Uni-

form Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and the Uniform Electrical Code as published by the Pacific Coast Electrical Bureau.

§ 18550 Unlawful Use

It shall be unlawful for any person to use or cause, or permit to be used for occupancy, any of the following manufactured homes or mobilehomes, wherever such manufactured homes or mobilehomes are located.

(a) Any mobilehome supplied with fuel, gas, water, electricity, or sewage connections, unless such connections and installations conform to regulations of the commission.

(b) Any manufactured home or mobilehome which is permanently attached with underpinning or foundation to the ground, except for manufactured homes or mobilehomes which bear a department insignia or federal label, and which are installed on a foundation system, pursuant to § 18551, on real property owned by the owner of the mobilehome under a building permit issued pursuant to the provisions of subdivision (a) of § 18551.

(c) Any manufactured home or mobilehome which does not conform to the registration requirements of the Vehicle Code, except for a mobilehome which has been placed upon a foundation system pursuant to § 18551, and is subject to local property taxation, pursuant to § 109.7 of the Revenue and Taxation Code. . . .

(d) Any manufactured home or mobilehome in an unsafe or unsanitary condition.

(e) Any manufactured home or mobilehome which is structurally unsound and does not protect its occupants against the elements.

(f) Any mobilehome which does not have a current annual vehicle license except for a mobilehome which has been placed on a foundation system pursuant to § 18551, and is subject to local property taxation, pursuant to 109.7 of the Revenue and Taxation Code.

§ 18551 Manufactured home, mobilehome and commercial coach foundation systems; regulations; building permits; fees; recording document; cancellation of registration; fixture or improvement status; removal; consent

The department shall establish regulations for mobilehome foundation systems which shall be applicable throughout the state. When established these regulations supercede any ordinance enacted by any city, county, or city and county applicable to mobilehome foundation systems.

The department may approve alternate foundation systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of such alternate systems by its stamp of approval on the plans and specifications for the alternate system.

(a) Prior to installation of a mobilehome on a foundation system, the mobilehome owner or a licensed contractor shall obtain a building

permit from the appropriate local agency. To obtain such a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the mobilehome owner owns or holds title to the real property where the mobilehome is to be installed upon a foundation system.

(3) Plans and specifications required by department regulations or a department-approved alternate for the mobilehome foundation system.

(4) The mobilehome manufacturer's installation instructions, or plans and specifications signed by a California Licensed architect or engineer covering the installation of an individual mobilehome in the absence of the mobilehome manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the mobilehome, which shall be immediately transmitted to the department with a copy of the building permit and such other information concerning the mobilehome as the department may prescribe on forms provided by the department.

At the time the certificate of occupancy for the mobilehome is issued by the appropriate local agency, such local agency shall record with the county

recorder in the county in which the real property is located, a document particularly describing the real property upon which the mobilehome is installed on a foundation system, and the fact that a mobilehome has been affixed to the property.

Fees received by the department pursuant to this subdivision shall be deposited in the Mobilehome Revolving Fund established under § 18060.2 and shall be designated for enforcement of consumer protections provided in Part 2 (commencing with § 18000) of this division, relating to mobilehomes. To the extent these fees are utilized for enforcement of consumer protections, the provisions of § 18060.3 shall not apply.

The director through contract or interagency agreement with the department of Motor Vehicles, may utilize the fees collected pursuant to this subdivision to ensure the enforcement of consumer protections otherwise provided by provisions of the Vehicle Code.

(b) The Department of Motor Vehicles shall adopt regulations providing for the cancellation of registration of a mobilhome which is permanently affixed to a foundation system. The regulations shall provide for the surrender to the Department of Motor Vehicles of (1) the certificate of ownership and other indicia of registration, and (2) a certification from the enforcement agency that a certificate of occupancy has been issued with respect to the mobilehome which has been permanently affixed to a foundation system.

(c) Notwithstanding any other provision

of law, any mobilehome installed on a foundation system, attached, or otherwise permanently affixed to real property without compliance with the provisions of subdivision (a) and (b), shall not be deemed a fixture or improvement to such real property.

(d) Once installed on a foundation system, a mobilehome shall be subject to state enforced health and safety standards for mobilehomes, enforced pursuant to § 18040.

(e) No local agency shall require that any mobilehome currently on private property be placed on a foundation system.

§ 18613 Permit required for installation of manufactured home or mobilehome; Regulations; Inspection; Notice of defects; Fees

A permit shall be obtained from the enforcement agency each time a manufactured home or mobilehome, which is required to be moved under permit, is to be located or installed on any site for the purpose of human habitation or occupancy as a dwelling.

The contractor engaged to install the manufactured home or mobilehome shall obtain the permit, except when the owner of the manufactured home or mobilehome proposes to perform the installation. When a contractor applies for a permit to install a manufactured home or mobilehome, he or she shall display a valid contractor's license. The contractor shall complete the installation of the manufactured home or mobilehome in accordance with the building standards

published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the department within the time limitations which shall be established by regulations of the department. The time limitations shall allow contractors a reasonable amount of time within which to complete manufactured home or mobilehome installations. If inspection of the manufactured home or mobilehome cannot be approved for occupancy due to defective materials, systems, workmanship, or equipment of the manufactured home or mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulation of the department, to complete the installation after the defects in the manufactured home or mobilehome have been corrected.

The enforcement agency shall immediately notify the department whenever any manufactured home or mobilehome cannot be approved for occupancy due to defects of the manufactured home or mobilehome. The report of notification shall indicate health and safety defects and, in the case of new manufactured homes or mobilehomes, substantial defects of materials and workmanship. For purposes of this section, "substantial defects of materials and workmanship" means defects objectively manifest by broken, ripped, cracked, stained, or missing parts or components and shall not include defects concerning color combinations or grade of materials used. If the manufactured home or mobilehome fails installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the manufactured home or mobilehome. If, however, the installation fails inspection

due to immediate hazards to the health and safey of the occupant, as determined by the enforcement agency, the manufactured home or mobilehome may not be occupied. Except as provided in § 18930, the department shall adopt regulations for the installations and regulations which specify a standard form required to be used statewide by enforcement agencies as a certificate of occupancy or statement of installation acceptance. The department shall transmit a copy of the standard form to all enforcement agencies. An enforcement agency shall not be required to use the standard forms until their existing stock of forms for this purpose is depleted. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with § 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code relating to manufactured homes or mobilehomes or mobilehome parks and the other regulations adopted by the department pursuant to this section shall establish such requirements as the department determines are reasonably necessary for the protection of life and property and to carry out the purpooses of this section. In adopting building regulations or adopting other regulations pursuant to this section, the department shall consider reassembly of the manufactured home or mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors.

The department shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section, the building standards published in the State Building Standards Code relating to manufactured

homes or mobilehomes or mobilehome parks, and the other regulations adopted pursuant to provisions of this section. Where a city, county, or city and county is responsible for the enforcement, the city, county or city and county may establish a schedule of fees not to exceed the actual cost of enforcement and not to exceed those fees established by the department where the department is the enforcement agency. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee.

This section does not apply to recreational vehicles or commercial coaches.

§ 18614

If the installation of a mobilehome by a contractor has failed the inspection of the enforcement agency and he has failed to perform corrections to remedy the reasons for the failure within the time permitted by regulations of the commission adopted pursuant to § 18613, the enforcement agency shall promptly notify the registrar of such fact and the name of the contractor.

Upon such notification, the registrar shall investigate the actions of the contractor. Failure by the contractor to comply with the provisions of § 18613 and the regulations adopted pursuant thereto may constitute cause for disciplinary action.

APPENDIX J

MISCELLANEOUS

APPENDIX J

MISCELLANEOUS DOCUMENTS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DIVISION OF CODES AND STANDARDS - MOBLEHOME SECTION
Box 31 Sacramento, California 95801
(916) 445-3338

December 31, 1979

INFORMATION BULLETIN MH-79-21

TO: CITY & COUNTY BUILDING OFFICIALS
COUNTY TAX ASSESSORS
COUNTY RECORDERS
MOBILEHOME ESCROW
DIVISION STAFF

SUBJECT: PROCEDURES, FORMS, DOCUMENTS, AND CERTIFICATES REQUIRED FOR MOBILEHOMES INSTALLED ON FOUNDATION SYSTEMS

Section 18551 of Health and Safety Code was added by Assembly Bill 887, Capter 1160, 1979 Statutes, and becomes effective January 1, 1980. Section 18551, copy attached, provides for the placement of mobilehomes on foundation systems and requires specific fees, forms, documents, and items to be used, transmitted, and recorded in conjunction with the installation of mobilehomes on foundation systems.

The department has developed the attached form, HCD413, as required by § 18551(a)(6) for use by local enforcement agencies to

meet the majority of their documentation requirements. This form also meets the needs of several other governmental and private agencies as well as individuals who become involved in the installation of mobilehomes on foundation systems. Any comments or recommendations for improvement of this form or requests for additional copies should be adressed to :

Department of Housing & Community Development
P. O. Box 31
Sacramento, California 95801
(916) 445-3338
445-9471 (Kerin)

In order to meet the documentation requirements of § 18551, complete each section of the form with accurate information and process the form as follows:

1. Upon application for a building permit to place a mobilehome on a foundation system complete all portions of the form except "CERTIFICATE OF OCCUPANCY" with a typewriter or legible printing in black ink. Make a copy of the completed HCD FORN 413 and mail it immediately to the department with a copy of the building permit anf fees in amount of $11.00 for each transportable section of the mobilehome. KEEP THE ORIGINAL COPY OF THE HCD FORM 413.

2. When the installation of the mobilehome on a foundation system has been completed and has passed inspection, complete the CERTIFICATE OF OCCUPANCY portion of the original form. Make three (3) copies of the completed HCD Form 413 and immediately

deliver the original copy to the County Recorder's Office for recording. The three (3) additional copies of the HCD Form 413 are to be delivered to the Recorder's Office at the same time as the original for complimewntary stamping in the upper right hand corner of the form.

3. The three (3) copies of the HCD Form 413, with the Recorder's Stamp in the upper right hand corner are to be distributed by the local agency as follows:

(a) One copy returned to the applicant for the building permit to place the mobilehome on a foundation system. This copy serves as the certificate of occupancy for the mobilehome owner, evidence that the documentation required by § 18551 has been completed and recorded, and the evidence required by mobilehome escrow regulations for an escrow to close where the mobilehome is installed on a foundation system.

(b) One copy mailed or delivered to the Department of Motor Vehicles with the certificate of ownership, license plates, decals, and other DMV registration indicia. These may be delivered to the nearest DMV office, Attention Unit 47, or mailed to:

Department of Motor Vehicles
P.O.Box 11319
Sacramento, CA 95806

ATTENTION UNIT 47

NOTE: Proposed DMV regulations require the local agency obtain from the mobilehome owner, at the time the certificate of occupancy is issued: the certificate of ownership, license plates or decals, and other DMV registration indicia. Where the certificate of ownership, license plates or decals, and other DMV indicia is claimed to be missing or lost by the mobilehome owner, the mobilehome owner is required to provide a "Statement of Facts", DMV Form Reg. 256, certifying under penalty of perjury as to the loss. This statement, signed by the mobilehome owner, may be accepted by the local agency and transmitted to DMV in lieu of the required item claimed to be missing or lost.

(c) One copy for the local agency records.

Following the above procedure carefully with an accurately completed HCD Form 413 will meet the requirements of § 18551 for, providing information to the department, issuing a certificate of occupancy, filing a specific document with County Recorder, and providing certification to the Department of Motor Vehicles that a Certificate of Occupancy has been issued and the mobilehome has been permanently affixed to a foundation system.
In addition, this procedure and form will provide the documentation required to close a mobilehome escrow.

Instructions for completing the HCD Form 413 are also attached.

(signature)

Jack L. Kerin, Chief
JLK:TP:cr
Attachments

(Attachment)

INSTRUCTIONS FOR COMPLETING THE HCD FORM 413 FOR MOBILEHOMES INSTALLED ON FOUNDATION SYSTEMS.

1. At the time a building permit is issued, the local enforcement agency will complete an HCD Form 413, except for the bottom portion identified as "CERTIFICATE OF OCCUPANCY".

2. The local agency will immediately mail a copy of the HCD Form 413, a copy of the building permit, and a check or money order in amount of $11 for each transportable section of the mobilehome to be placed on a foundation system, to the department at the address indicated on the HCD Form 413. The check or money order shall be made payable to the department and may be provided by the mobilehome owner or the permit applicant.

3. Each portion of the HCD Form 413 must be completed since an incomplete form does not represent compliance with § 18551 of the Health and Safety Code. Complete the form as follows:

(b) OWNERSHIP INFORMATION - MOBILEHOME
(1) The Registered Owner's Name is the person who owns the mobilehome and is indicated as the Registered Owner on the Certificate of Ownership ("Pink Slip") of the Department of Motor Vehicles. Where the mobilehome is new, and not yet registered with DMV, the Registered Owner can be identified from the sales contract,security agreement, or bill-of-sale for the mobilehome.

(4) Indicate by either "Yes" or "No", whether or not the mobilehome owner has

indicated the mobilehome being installed on a foundation system to be the mobilehome owner's principal place of residence.

(5) The Legal Owner's Name is the person, firm, or corporation indicated as the legal owner on the Certificate of Ownership ("Pink Slip") from DMV. Where the mobilehome is new, and not yet registered with DMV, the Legal Owner may be identified from the security agreement for the mobilehome. (Since new, unregistered, mobilehomes may only be sold by licensed mobilehome dealers the mobilehome sales transaction is required to be handled by an escrow; you may wish to contact the escrow agent or agency for information relating to the Legal Owner of for other information required by the HCD Form 413) If the Legal Owner and the Registered Owner are the same, indicate "Same" as the Legal Owner. Indicate the Legal Owner's address, where applicable.

(6) Where there is a Legal Owner of the mobilehome, written consent must be provided by the Legal Owner to place the mobilehome on a foundation system. Indicate the form of written consent accepted from the Legal Owner for placement of the mobilehome on a foundation system.

(c) OWNERSHIP INFORMATION - REAL PROPERTY

(1) Indicate the name or names of the person, persons, firm, or corporation holding title to the real property where the mobilehome is proposed to be sited. This must be the same as the Registered Owner of the mobilehome. Title information is required to be by written evidence such as a Grant Deed, Deed of Trust, court order, etc

(2) Indicate the mailing address of the real property, city, county, and ZIP Code.

(3) Indicate the size of the real property by either length and width, in feet, or by the acreage.

(4) Indicate the type of written evidence provided to indicate ownership of the real property.

(5) Indicate the Assessor's Parcel Number for the real property where the mobilehome is to be sited.

(6) Indicate the mortgage holder(s) on the real property, if any, and their addressess(s). This information may be obtained from Trust Deeds, contracts of sale, etc.

(8) Provide the exact legal description of the real property. This may be obtained from a title policy, deed, etc. Use care in transcribing the legal description to assure accuracy.

(d) SALES INFORMATION - MOBILEHOME

(1) Indicate the date of purchase of he mobilehome.

(2) Indicate the amount of purchsase price of the mobilehome.

(3) Indicate the personal property items, such as free standing appliances and furniture, included in the purchase price of the mobilehome by identifying the item and indicating the dollar value of the item.

The form is now complete as far as the information required to be mailed to the department with a copy of the building permit and fees in amount of $11 for each transportable section.

4. Copy the form, keep the original, and forward the copy, copy of the building permit, and fees to the department by mail.

5. When the installation of the mobilehome has been completed and has passed inspection, complete the bottom part of the original copy of the form titled "CERTIFICATE OF OCCUPANCY' by indicating the date and signing the form.

6. On the same day as the Certificate of Occupancy is issued, make three (3) additional copies and deliver all four (4) of these copies to the County Recorder's Office for recording in the County records. The original copy is the copy to be recorded and the three (3) additional copies for complimentary copies back to the local agency with the Recorder's Stamp in the upper right hand corner of the form.

7. On the same day as the Certificate of Occupancy is issued, collect from the mobilehome owner the Certificate of Ownership, license plates or decals, and other DMV indicia. Where any of these items are not available, you may accept a "Statement of Facts" on DMV Form Reg. 256 indicating under penalty of perjury that these items are missing or lost. Where the mobilehome is new and has never been registered with DMV, you may accept a statement from the mobilehome dealer selling the mobilehome to that effect.
8. Transmit one copy of the completed HCD Form 413, with the County Recorder's Stamp in the upper right hand corner, to the applicant for the building permit.

9. Transmit one copy of the completed HCD Form 413, with the County Recorder's Stamp in the upper right hand corner, with the Certificate of Ownership, license plates or

decals, and DMV registration indicia, to the local DMV Office, Attention Unit 47, or mail this material to:

DEPARTMENT OF MOTOR VEHICLES
P. O. Box 11319
Sacramento, CA 95806
ATTENTION UNIT 47

10. File one copy of the completed HCD Form 413, with the County Recorder's Stamp in the upper roght hand corner, with your copy of the building permit.

Providing these instructions are followed carefully, all the requirements for documen tation contained in § 18551 of the Health and Safety Code for the placement of mobile homes on foundation systems will be met.

Supreme Court, U.S.
F I L E D
MAR 30 1990
JOSEPH F. SPANIOL, JR.
CLERK

No. 89-1328

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1989

LOUISE W. GOODRICH,

Petitioner,

vs.

COUNTY OF LOS ANGELES,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT
DIVISION SEVEN

BRIEF OF RESPONDENT, COUNTY OF LOS ANGELES, IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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CONTENTS REPRODUCED FROM FURNISHED PRETYPED COPY

Summary of Reasons to Deny Petition:

1. This was an action for money damages only. In addition to correctly deciding the state issue, the court below correctly decided the two issues within this Court's jurisdiction: whether causes of action had been pleaded against County under 42 U.S.C. §1983 (deprivation of federal right by state action) and §1985 (conspiracy to do so).

2. The basic charging allegation against County was that its building inspector botched his inspection of the installation of Petitioner's manufactured home to her damage.

The National Manufactured Housing Construction and Safety

Standards Act of 1974, on which Petitioner relies exclusively, pertains only to the design and manufacture of manufactured homes. Congress clearly did not preempt local police power regulation and inspection of the installation of manufactured homes.

Also Congress did not establish in its 1974 statute a cause of action for damages or any right enforceable by a 42 U.S.C. §§1983-85 action for damages.

3. Since there was no pleading of a federal "right" there could be no cause of action stated for deprivation under §1983 or for conspiracy to deprive under §1985.

4. Even if deprivation of a federal "right" had been pleaded, there is another fatal pleading defect.

Petitioner admits in verified pleadings that her damage flowed from a County field inspector's negligent inspection and his mistaken use of the wrong form while the right form was available in his department.

She thus judicially admits that her damage was not caused by County policy set by the County Board of Supervisors or a County policy-maker, which is a fatal defect in trying to plead liability of County for damages under this Court's Monell and Pembaur cases.

Questions Presented:

Did Congress by the National Manufactured Housing Construction and Safety Standards Act of 1974 intend to preempt local building and safety laws for routine inspection of the installation of manufactured homes?

Assuming Congress did so intend, is an ordinary County building inspector, who negligently approves the installation of a manufactured home, against County procedures, a County "policy-maker" for purposes of liability of County under the Pembaur case of this Court? (Pembaur v. Cincinnati (1986) 436 U.S. 658, 98 S.Ct. 2018.)

Parties

Petitioner, Mrs. Goodrich, and Respondent, County, are the only parties to this Petition.

There were other defendants to the action, in addition to County, in the state trial court below.

The action in the trial court was dismissed only as to County, after several successful demurrers for failure to state a cause of action under state or federal authority, and the only parties to the state appeal were Petitioner and County.

Therefore, the only parties to this appeal are the Petitioner and Plaintiff and Appellant below, Louise W. Goodrich, and the Respondent,

County of Los Angeles, Defendant and Respondent below.

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No. 89-1328

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1989

LOUISE W. GOODRICH,

Petitioner,

vs.

COUNTY OF LOS ANGELES,

Respondent.

BRIEF OF RESPONDENT, COUNTY OF LOS ANGELES, IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Opinions Below:

The subject decision of the California Court of Appeal, Second Appellate District, Division 7, was "not to be published" under California appellate rules of court. Therefore, it has not been reported.

A copy of the appellate opinion is appended to the Petition as Appendix A, Volume 2.

The California Court of Appeal is an intermediate state appellate court; however, the California Supreme Court has denied Petitioner's Petitioner for Review, on November 21, 1989. Therefore, the subject California Court of Appeal decision is a final decision "by the highest court of a State in which a decision

could be had." (28 U.S.C. §1257.)

Jurisdiction:

If this Court grants this Petition, jurisdiction would be based on 28 U.S.C. §1257 (3) because Petitioner claimed a right under a federal statute in the trial court and on appeal.

This Petition should have been filed or mailed within 90 days of the date the California Supreme Court refused to grant a hearing. (28 U.S.C. §2101(c).)

Since the Order Denying Review was filed by the California Supreme Court on November 21, 1989 (see Petition, Appendix B, Volume 2) the last day for filing or mailing the Petition was February 19, 1990.

As to this Brief in Opposition, the Petition was received on February 28, 1990; therefore it must be filed or mailed by United States mail on or before March 30, 1990.

Pertinent Statutes:

Petitioner claims to have stated causes of action against County under 42 U.S.C. §§1983-85 for deprivation of rights secured by the National Manufactured Housing Construction and Safety Standards Act of 1974, ("the Federal Act") a federal statute. (42 U.S.C. §§5401-5426.)

STATEMENT OF THE CASE

County accepts the Statement of the Case at the trial and appellate levels in the subject opinion of the California Court of Appeal, Second

Appellate District, Division Seven, pages 1 through 26, found in the Petition, appendix A, pages 1a through 36A.

However, County disputes Petitioner's contention that she properly pleaded that County "policies" contrary to the Federal Act caused her damage.

She has factually alleged in verified complaints that her damage was caused by a negligent inspection of the installation of her manufactured home by a County inspector and his mistaken use of the "wrong" form when the "right" form was available in his department.

Mr. Severino Gaba, the County inspector, inspected the installation

of the manufactured home on Petitioner's property. (Clerk's Transcript, "C.T.", 7:27-9:1; 25:16-26:16.)

He missed serious defects. (C.T. 27:4.)

He signed the wrong form, "Final Inspection Approval and Certificate of Occupancy," rather than the right form, "HCD 413." (C.T. 8:19-9:1; 445:11-446:10.)

His signing of the wrong form after his negligent inspection caused the escrow to close on October 17, 1983, causing her to lose her $38,000.00 purchase price and causing her to become the owner of a defective manufactured home, which is the basic harm complained of. (C.T.

5:20-24; 6:14-25; 26:16-24.)

Petitioner admits that the right form, HCD 413, was available to Mr. Gaba in the County Building and Safety Department (C.T. 441:11-24); therefore, the damage complained of (loss of $38,000.00 and ownership of a defective manufactured home) was not due to a County policy but to an inspector's negligent inspection and his mistaken use of the wrong form.

ARGUMENT:

1. NO PLEADING OF DEPRIVATION OF A FEDERAL RIGHT.

To plead liability of County, under 42 U.S.C. §§1983-85, for the acts or omissions of its building inspector, Petitioner must first plead that she was denied a right secured by the Constitution or by a federal statute.

A deprivation under the U.S. Constitution has not been factually pleaded herein. In no reported case has the Federal Act, or a similar federal statute, been held to create rights, privileges, or immunities, which could give rise to federal constitutional deprivation under taking-or-damaging, due process, or

equal protection analysis.

Therefore, the deprivation alleged must be of a right secured by a federal statute rather than the United States Constitution.

In the trial court and appellate courts Petitioner claimed denial of rights under the National Manufactured Housing Construction and Safety Standards Act of 1974 ("the Federal Act").

This Court has held that 42 U.S.C. §§1983-85 ("§§1983-85") provides a remedy for deprivation under color of state law of rights conferred by federal statutory law unless Congress puts a judicial enforcement scheme in the statute itself or unless Congress did not

Opinions Below:

The subject decision of the California Court of Appeal, Second Appellate District, Division 7, was "not to be published" under California appellate rules of court. Therefore, it has not been reported.

A copy of the appellate opinion is appended to the Petition as Appendix A, Volume 2.

The California Court of Appeal is an intermediate state appellate court; however, the California Supreme Court has denied Petitioner's Petitioner for Review, on November 21, 1989. Therefore, the subject California Court of Appeal decision is a final decision "by the highest court of a State in which a decision

construed to give Petitioner a "right" under §§1983-85.

Since Petitioner did not plead a federal "right" she did not plead deprivation of a federal right, nor did she plead conspiracy to deprive her of a federal "right."

2. NO PREEMPTION OF LOCAL INSPECTION OF INSTALLATION BY THE FEDERAL ACT.

Manufactured homes are completely constructed offsite and are then brought onto the site and installed.

The purpose of the Federal Act was to establish construction and safety standards for manufactured homes (42 U.S.C. §5401), to protect against the risk of "accidents due to design or construction" (42 U.S.C.

§5402 (8)).

The Federal Act clearly was intended by Congress to preempt only state and local standards for construction or safety of manufactured homes in the design or manufacturing stages (42 U.S.C. §5403 (d)), not local regulation and inspection of <u>installation</u> of already designed and manufactured units.

No Federal or California case authority exists on this but the Supreme Court of Michigan has ruled that Congress did not intend the Federal Act to preempt local land use regulation (zoning), which is a local police power very closely related to the local police power in this case, regulation and inspection of building

or installing of structures. (Gackler Land Co., Inc. v. Yankee Springs Township (Supreme Ct. Mich. 1986) 398 N.W. 2d. 393, 400-01).)

3. NO ADEQUATE PLEADING OF COUNTY POLICY OR POLICY-MAKER

If deprivation of a federal right had been pleaded, Petitioner would also have to plead that the deprivation was caused by an official County policy set by an act of the Board of Supervisors or by the act of a high County policy-maker. (Pembaur v. Cincinnati (1986) 475 U.S. 469, 477 and note 5, 106 S.Ct. 1292, 1297 and note 5; Monell v. N.Y.C. Dept. of Soc. Serv. (1978) 436 U.S. 658, 690-95, 98 S.Ct. 2018, 2035-38.)

Petitioner admits in verified complaints that the damage complained of (loss of $38,000.00 and ownership of a defective manufactured home) was caused by the closing of the escrow,

which itself was caused by the negligent inspection by a lowly, field inspector and the signing by him of the wrong form, when the right form was available to him in his department. She cannot plead truthfully and factually that her damage was caused by official County policy, set by the Board or by a high County policy-maker.

Because of the admissions of the basic facts in Petitioner's verified complaints, contradictory conclusionary allegations, especially in subsequent amendments, could be disregarded by the state court on demurrer.

4. CONCLUSION

Since Congress in the Federal Act did not intend to create rights enforceable by §§ 1983-85 nor to preempt state or local regulation of the installation of manufactured homes, there has been no pleading of deprivation of a right secured by the Federal Constitution or federal laws.

Even if such a deprivation had been pleaded, still no cause of action could be pleaded against County, the inspector's employer. The verified pleadings admit that he was merely a field building inspector, not a policy-maker, and that he used the wrong form, while the right form was available in his department, thus contradicting County

this caused escrow to close irrevocably on or about October 17, 1983, long before the alleged meetings with higher County personnel.

No cause of action has been or can be pleaded under the Constitution or the Federal Act.

Wherefore, this Petition for Certiorari should be denied.

DATED: March 28, 1990

Respectfully submitted,

DE WITT W. CLINTON
County Counsel

PAUL T. HANSON
Principal Deputy
County Counsel

Attorneys of Record
for Respondent

COUNTY OF LOS ANGELES

Supreme Court, U.S.
FILED
APR 4 1990
JOSEPH F. SPANIOL, JR.
CLERK

No. 89-1328

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

LOUISE W. GOODRICH,

Petitioner,

v,

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE
CALIFORNIA COURT OF APPEAL,
SECOND APPELLATE DISTRICT, DIVISION SEVEN

REPLY BRIEF FOR PETITIONER

Louise W. Goodrich
16187 East Deeplake Avenue
Palmdale, California 93550
(805) 264-4702

Louise W. Goodrich,
in propria persona

QUESTIONS PRESENTED

(Petitioner is satisfied that the questions presented in her Petition fully encompassed her appeal. However, County Respondent's Brief totally misconstrues the basic facts which have a bearing on the question of what issues would properly be before the Court if Certiorari were granted. As a result, Petitioner is compelled to submit the following additional question.)

5. Where the breach of mandatory duties causes a product under Federal Regulation to be rendered in nonconformance therewith, is a cause of action based thereon properly identified as being only a "state issue"?

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§ 18551 . . . . . 3.

Opinion of Attorney General

61 Ops Atty Gen 309 . . . . . 8.

STATEMENT OF THE CASE

Petitioner's Statement of the Case is fully set forth at pp.4-25 of the Petition.

ARGUMENT

Erroneous statements are contained in County Respondent's (hereafter "County") Brief in Opposition. (hereafter "RBO")

I

Point 1., Summary of Reasons to Deny Petition, would erroneously limit this Court's jurisdiction. (RBO p. i)

While Breach of mandatory duties under state law would ordinarily be considered a state issue, this Court nevertheless has jurisdiction to make determination whether or not the Congressional superintendence of a commercial industry has been impaired by acts taken by a political subdivision of a state. It is a federal question. It is an undisputed fact that the product under federal regulation is not in conformance therewith. (PW [Petition for Writ] p.23)

County would mislead this Court. The money damages sought are: (1) based upon the actual costs of replacement of the

damaged and unsafe structure with a sound structure which meets the minimum standards set forth in the Federal Regulations without which the legal document showing Petitioner's ownership of improvement to her real property cannot be issued and recorded; and (2) the mental and emotional distress caused by County harrassment and deprivation of fundamental Rights over such protracted period of time. (PW p. 25)

II

Point 2., Summary of Reasons to Deny Petition, erroneously states Petitioner "relies exclusively" on the Federal Act. (RBO p. ii)

This statement would mislead this Honorble Court. Petitioner has cited numerous State laws both in her pleadings and in Petition for Writ which give rise to property rights and property protected by the Constitution. These include, but are not limited to, California Health and

Safety Code §§ 18000 et seq.; CA Adm Code § 1000 et seq., certain sections of which create and define valuable property interests stemming from an "outside source such as State law". (PW p. 40)

H & S Code § 18551 requires the County to use and record a legal document to which all purchasers of manufactured homes placed upon their real property located within the geographical boundaries of the county and state, are entitled. Petitioner contends that such a document is a very valuable property in itself, created and defined by this statute. (PW p. 40)

The Federal Act did not create this property. The Federal Act regulates the structure for which this property is issued. The recorded document provides the legal proof of ownership. It affects the purchaser's Constitutional right to sell or otherwise dispose of the product, the purchaser's home. (PW p. 35, 25)

H & S Code § 18300(f) requires the County,

> "within its jurisdiction, to enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, . . and the other regulations adopted pursuant to the provisions of this part as they relate to manufactured homes . . . located outside of mobilehome parks."

The other regulations referred to include, but are not limited to, duties set forth in CA Adm Code § 1000 et seq. Petitioner and all purchasers of manufactured homes for the purpose of being placed upon their real property not located in a mobilehome park, have a very valuable property interest in the performance of these services.(PW p.28)

One such duty is Plan Check which requires a review of the <u>design</u> (floor plan)* together with the installation instructions and permanent foundation plan

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* Petitioner respectfully requests this Honorable Court to take judicial notice that this floor plan consists of a single sheet of paper. A determination whether or not it was intended for use with a permanent foundation is immediately visually apparent.

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blueprints. This ensures that the manufacturer has complied with the Federal Regulations and designed the home under consideration as a totally integrated structure meeting the requirements of the particular purpose for which it is being submitted. Plan check protects against a particular kind of injury. Failure to perform this duty gives rise to a state tort cause of action under Govt. Code § 815 et seq. Additionally, since a commercial product under Federal Regulation is involved, failure to perform adequate plan check for the purpose of determining whether the regulated product conforms with the Federal requirements, gives rise to a cause of action for the deprivation of the equal protection of Federal laws.(PW p. 27)

In the instant case the floor plans did not contain a DAPIA (Design Inspection Primary Inspection Agency) stamp of approval. It did not contain engineering

specifications required to show the design is to be used with a permanent foundation. The installation instructions, which contained a DAPIA stamp of approval, and illustrations clearly showing they were to be used with a home designed without a permanent foundation. (PW p. 12)

Installation instructions are an integral part of the design. The definition of a "manufactured home" clearly indicates the two distinct types. There are significant differences in the design and installation procedures for the two different types of support. (PW p. 12)

Plan check is a critical service relating to an aspect of manufactured homes covered by the Federal Standards. The other services set forth in CA Adm Code § 1000 et seq., also relate to, and affect, aspects covered by the Federal Standards.

CONGRESS INTENDED TO PREEMPT LOCAL POLICE POWERS WITH REGARD TO MANUFACTURED HOMES

The Act makes provision for States to participate in the Federal Enforcement Program. It sets forth specific conditions to be met. These include, but are not limited to, the State's mandatory certification that if approved, the STATE PLAN WILL BE CARRIED OUT IN FULL. States are authorized to use other entities, both private and governmental in performing its duties under the approved State Plan.(PW38)

California's State Plan is codified in H & S Code §§ 18000 et seq., and CA Adm Code §§ 1000 et seq.

H & S Code § 18015 states:

> "The provisions of this part apply to all parts of the state and supercede any ordinance enacted by any county . . . which can conflict with the provisions of this part."

H & S Code § 18025(b) states:

> "All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the [Act]."

H & S Code § 18025.5 states:

> "Pursuant to the [Act] the department is authorized to assume responsibility for

enforcement of manufactured home and mobilehome construction and safety standards relating to any issue to which a federal standard has been established. The department may adopt regulations to ensure acceptance by the Secretary of [HUD] of California's plan for administration and enforcement of federal manufactured home and mobilehome safety and construction standards."

H & S Code § 18300(a) states:

"The provisions of this part apply to all parts of the state and supercede any ordinance enacted by any county . . . whether general law or chartered, applicable to the provisions of this part. . . . the department may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state."

61 Ops Atty Gen 309 states:

"A state or local standard regarding construction or safety applicable to the same aspect of performance as an existing federal standard under the [Act] is preempted by the federal standards with respect to a mobilehome as defined in the federal law, including those designed to be used with and placed upon a permanent foundation."

CA Administrative Code § 1000 states:

" The provisions of this subchapter shall apply . . . to the use, maintenance and occupancy of mobilehomes . . . and the installations for supplying fuel gas, water, electricity and the disposal of sewage from accessory structures and

mobilehomes wherever located both within and outside of mobilehome parks in all parts of the state. (For purposes of this chapter, the term mobilehome shall include and be interchangeable with the term, manufactured home.)"

CA Adm. Code § 1320 states:

"The requirements of this article shall apply to the installation of mobilehomes and apply to all parts of the state for mobilehomes installed within and outside of mobilehome parks."

A local enforcement agency wishing to gain jurisdiction over mobilehome parks and mobilehomes installed therein, are required to submit an application to HCD, the State Administrative Agency. (Full requirements are set forth in Vol. III pps. 94a.-96a., of Petition for Writ.)

CA Adm Code § 1004 states:

(a) Assumption of responsibility for the enforcement . . .by a county . . . shall be by means of an official ordinance. . . .

(3) A statement that the designated local enforcement agency will provide qualified personnel . . . .

(4) Adoption of the applicable schedule of fees . . . .

(5) (i) A statement adopting the state program and objectives . . .

(c) In addition to providing the above information, the local enforcement agency shall demonstrate actual inspection capability in making a mobilehome installation inspection to the satisfaction of the department.

(d) A statement that the forms used for . . . the statement of installation acceptance shall be those provided by the state.

When the Secretary of HUD accepted California's State Plan, it did not intend a local enforcement agency to be exempt from compliance with the provisions set forth in the approved State Plan.(PW p. 37)

The requirements for States wishing to participate in the Federal Enforcement Program are set forth in CFR § 3282.302 (Full requirements are set forth in Vol. III pps. 84a.-88a., of Petition for Writ.) CFR § 3282.302 states:

[(b)(7)] "Contain satisfactory assurances in whatever form is appropriate under State law that the designated agency has or will have the legal authority necessary to carry out the State plan <u>in full as submitted</u> for full or conditional approval." (emphasis added)

[(b)(8)] "Contain satisfactory assurances that the designated agency has or will have in its own staff or provided by other agencies of the State or otherwise, the personnel, qualified by education or experience necessary to carry out the State plan." (emphasis added)

[(b)(11)] "Include an estimate of the cost to the State of carrying out all activities called for in the State plan under this section and § 3282.303 . . . " (emphasis added)

CFR § 3282.303 states:

"The following are not required to be included in the State plan but they are urged as necessary to provide full consumer protection and assurances of manufactured home safety:

[(c)] "Provision for monitoring or the installation of manufactured homes set up in the State to assure that the homes are properly installed and, where necessary, tied down."

CFR § 3282.11(d) states: ". . . . except where a State is providing one of the services mentioned in § 3282.303, and exept where a State is acting as a PIA, no State may charge a fee for any services provided under these regulations . . . " (emphasis added)

Clearly CA Adm. Code sets fees for services contained in the State plan as it is authorized to do under the federal laws. When specific fees are charged for the

performance of specific duties, and those fees are based upon the time spent, those duties are mandatory. (PW p. 11, 12)

Since the design of a manufactured home is an aspect covered by Federal Regulation, and both the State and its political subdivisions are prohibited from taking any action or continuing in force any rule which impairs Congressional superintendence of the manufactured home industry, it follows that local police powers are in fact preempted when they do not conform to the requirements of both the federal and state manufactured home laws. The County accepted the benefits and charged the fees but failed to provide the services.(PW p.12) Act, § 5403(d) states:

> Whenever a Federal manufactured home construction and safety standards is in effect, no State or political subdivision of a State shall have any authority either to establish or continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identi-

> cal to the Federal manufactured home construction and safety standard. [Footnote; Code of Federal Regulations Standards applicable, see 24 CFR 3280.1 et seq., 3282.1 et seq.]

CFR § 3282.11 states:

> (e) No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the federal superintendence of the manufactured home industry as established by the Act.

III

Point 3. and 4., Summary of Reasons to Deny Petition, erroneously state there was no pleading of a federal right, and that Petitioner did not allege her damages were caused by a County policy. (RBO p. ii, iii)

In pleadings as well as the Petition for Writ of Certiorari, Petitioner has demonstrated she has been and <u>is continuing to be</u> deprived of basic and fundamental Constitutional Rights, her property and valuable property interests all proximately

caused by County policies, and usual and customary practices. (PW p. 31)

County accepts the Appeal Court's Statement of the Case (RBO p.3).

Petitioner respectfully submits that the Appeal Court did not accurately summarize the allegations contained in the 7 & 8CAs of 5AC. With regard to pleading a County policy as proximately causing the deprivations complained of, the Appeal Court did not address the issue.(PW p. 36a)

In the 5AC Petitioner specifically pleaded numerous County policies, including that the County has an official policy of reliance upon the State immunity laws. Petitioner pleaded that as a result of this policy, County's training practices are inadequate. This is demonstrated by the large number of County employees and Officials who had some direct or after-the-fact responsibility to carry out County duties regarding Petitioner's manufactured

home. These include Plan Checkers, permit issuers, four field inspectors, two local office managers, one Official of the County Engineer-Facilities, Building and Safety Division, one Deputy to Supervisor Antonovich, one member of County Counsel, and one person in charge of Recording manufactured home documents. (PW p. 31)

Petitioner alleged that County Officials ratified the acts and omissions of all personnel at the local County Office located in Lancaster. (PW p. 29)

> "ratify", to approve or confirm; especially to give formal sanction to; to ratify is to make valid.
> --Webster's Dictionary.

At the time these officials ratified these various acts, the County policies with which these employees complied were explicitly stated. It is crystal clear that compliance with County policies proximately caused Petitioner's multiple deprivations. (PW p. 29-30)

The single inspector, Gaba, whose acts

are now labelled as a "mistake", is not solely responsible. If his "mistaken" use of an erroneous document was the only problem, the matter could have been cleared up years ago by the simple action of obtaining the correct document and recording it. In June, 1983, two months prior to the manufacture of the home, the floor plan and installation manual of the substituted home should have been rejected. This would have prevented the manufacturer from proceeding with the substitution.(PW56

The Conspiracy, 8CA of 5AC, set forth with particularity each step taken by each actor. (PW p. 56, 50)

> "That two persons pursue by their acts the same object often by the same means, one performing one part of the act and the other another part, so as to complete it with a view to the obtaining of the object they are pursuing is sufficient to constitute a "conspiracy" regardless of whether each conspirator knew the details of a conspiracy or of the exact part to be performed by the other conspirators or whether the details were completely worked out in advance." Picnig v. Penn. Railroad Co. (D.C. Pa 1946) 5 F.R.D. 76

"It is necessary for a § 1983 conspiracy claim that there be alleged and proved a Constitutional deprivation. A conspiracy standing alone is insufficient. Also the conspirators need not know that their conduct is unconstitutional; specific intent to cause a Constitutional deprivation is not required. However, there must be an understanding, or some concerted effort or plan, to cause harm or injury to the Plaintiff." Hampton v. Hurahan Section D.C. ILL. (1981) 522 F. Supp. 140 and 160, 620-23 (7th Cir. 1979) cert. den. 446 U.S. 754 (1980)

ADDRESSING STATEMENTS ON PAGE 2. RBO

Jurisdiction:

If this Court grants this Petition, jurisdiction would be additionally based on 28 U.S.C. § 1257(3). (PW p. 3)

This Petition was mailed Certified with return receipts on February 15, 1990. This is four days prior to the expiration date of February 19, 1990. Three copies were mailed Certified with return receipt to the County Counsel on February 15, 1990. Petitioner is not responsible for delay in delivery of mail by the U. S. Post Office.

Pertinent Statutes:

Petitioner is satisfied that the

Federal Act in its entirety is deemed applicable by Respondent County; however, the related Federal Regulations in their entirety, all of the State Manufactured Home laws and Regulations which bear on this case are also pertinent, whether cited or not, as well as the United States Constitution and Constitution of the State of California. (PW p. 3)

All other argument of Respondent County has been addressed in Petitioner's Petition for Writ of Certiorari to this Honorable Court.

CONCLUSION AND RELIEF SOUGHT

Petitioner is a United States citizen and is entitled to all of the benefits and rights provided to all citizens by the laws of the land. A citizen is entitled to seek redress through the Courts when any one of those rights has been abridged or denied.

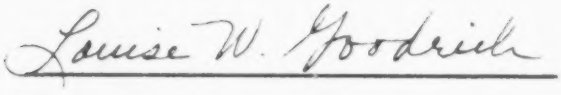
Petitioner is seeking the opportunity to resolve these problems through Due

Process. Petitioner is seeking this Honorable Court to return this case to the lower court to go to trial on the issues.

An Opinion by this Honorable Court is urgently needed. If Certiorari is denied and benefit of legal guidance not provided, then all of the deprivations and hardships which are being suffered by Petitioner will be permitted to be inflicted upon other citizens in the future.

Petitioner respectfully prays that this Honorable Supreme Court will grant her Petition for Writ of Certiorari.

Respectfully submitted,



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in Propria Personna

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Dated April 2, 1990

APPENDIX

Correction of Typographical Errors

in Petition for Writ of Certiorari

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APPENDIX
(Page No.s refer to Petition pages.)

Page

Volume One

CFR §§ 3280.2(a)(16) & 3282.7(v) repeat the definition in § 5402(6) . . 13.

CFR § 3280.601 "Subpart G of this standard covers the plumbing materials, fixtures and equipment installed within or on manufactured homes. It is the intent of this subpart to assure water supply, drain, waste and vent systems which permit satisfactory functioning and provide for health and safety under all conditions of normal use." . . 15.

CFR §3280.810(a) "Dielectric strength test" . . . . . 15.

§ 3282.252 should be: 3282.254 . . . . 31.

§ 3282.302(a)(8) should be: 3282.302(b)(8) . . . 37.

§ 3280.203(b)(10) should be 3282.203(b)(10) . . . 39.

Act § 5422(c)(11) "complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter." . . . 54.

Volume Three

(line 5) § 3282.203 should be: 3282.303 . . . . . 88a.